

# AGENDA

## Planning Commission

**MEETING DATE AND TIME:**

September 11, 2019 - 7:00 p.m.

**MEETING LOCATION:**

City Hall Council Chamber  
6650 Beach Boulevard, Buena Park, CA

Members of the public who wish to discuss an item should fill out a speaker identification card and hand it to the secretary. When the item is announced by the Chair, speakers should come forward to the microphone, and upon recognition by the Chair, state their names and addresses.

All actions by the Planning Commission are final unless an appeal to the City Council is filed with the City Clerk within ten (10) working days of the decision.

*Appeal period ends on September 26, 2019.*

**CALL TO ORDER / FLAG SALUTE:**

**ROLL CALL:** Capelle, Chung, Desai, Diep, McGuire, Schoales, and Barstow

1. **APPROVAL OF MINUTES:** August 28, 2019 Meeting  
August 28, 2019 Study Session/Workshop

RECOMMENDED ACTION: Approve

**PUBLIC HEARING:**

**NEW BUSINESS:**

2. **CONDITIONAL USE PERMIT REVOCATION NO. CU-716 RVK**

A request to initiate the modification or revocation of Conditional Use Permit No. CU-716 to operate and maintain a hotel and schedule a public hearing for final action for a property located at 7762 Beach Boulevard within the ECSP (Entertainment Corridor Specific Plan) zone. The project is categorically exempt pursuant to California Environmental Quality Act (CEQA) Section 15301, Class 1 (Existing Facilities).

PROPERTY OWNER: Golden Hotel, LLC / Golden Capital Venture, LLC  
DBA: Radisson Suites  
C/o Hieu Minh Bui  
9357 Andalusia Avenue  
Fountain Valley, CA 92708

RECOMMENDED ACTION: Approve Resolution to initiate modification or revocation

**ORAL COMMUNICATIONS:**

At this time, the public may address the members of the Planning Commission on any item that is within the jurisdiction of the Planning Commission.

**AGENDA FORECAST:**

**STAFF REPORTS:**

**COMMISSION REPORTS:**

**ADJOURNMENT:** To the regularly scheduled Planning Commission meeting on Wednesday, September 25, 2019, at 7:00 p.m. in the City Council Chamber

CITY OF BUENA PARK  
MINUTES OF CITY PLANNING COMMISSION  
August 28, 2019

The regular meeting of the Planning Commission of the City of Buena Park convened at 7:03 p.m. on August 28, 2019, in the City Council Chamber, 6650 Beach Boulevard, Buena Park, California with Chair Barstow presiding.

PRESENT: COMMISSIONERS: Capelle, Chung, Desai, Diep, McGuire, and Barstow

ABSENT: COMMISSIONER Schoales

Joel W. Rosen, AICP, Director of Community Development  
Brady M. Woods, Planning Manager  
Swati Meshram, PhD, AICP, LEED AP, Senior Planner  
John W. Lam, Assistant City Attorney  
Ruth Santos, Senior Administrative Assistant

1. **APPROVAL OF MINUTES** August 14, 2019

RECOMMENDED ACTION: Approve

AYES: 6 COMMISSIONERS: Diep, Capelle, Chung, Desai, McGuire, and Barstow

NOES: 0 COMMISSIONER:

ABSENT: 1 COMMISSIONER: Schoales

ABSTAIN: 0 COMMISSIONER:

PUBLIC HEARING:

OLD BUSINESS:

2. **SITE PLAN NO. SP18-33568/VARIANCE NO. V18-032970/PARCEL MAP NO. PM18-32972**

A request to construct a new two-story single family home with Variance from Section 19.308.050 of the Zoning Code for required minimum street frontage in conjunction with a request to subdivide one lot into two separate lots at 9162 Holder Street within the RS-6 (One-Family Residential) zone. The project is categorically exempt pursuant to California Environmental Quality Act (CEQA) Section 15332, Class 32 (In-Fill Development).

APPLICANT: JWY Design, Inc.  
12803 Schabarum Avenue  
Irwindale, CA 91706

PROPERTY OWNER: Cashflow Investments LLC  
126 Calderon  
Irvine, CA 92618

**RECOMMENDED ACTION:** Adopt Resolution of Approval

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

The staff report was presented by Brady M. Woods, Planning Manager.

The property under application is 0.29 acres (12,761 square feet) in size and developed with a 1,102 sq. ft. one story single-family home. The property carries a General Plan designation of Low Density Residential, and is currently zoned RS-6 (One-Family Residential).

**SURROUNDING LAND USE CHARACTERISTICS:**

	<b>GENERAL PLAN</b>	<b>ZONING</b>	<b>EXISTING LAND USE</b>
<b>North</b>	Planned Development	Planned Development	Single Family Residential and OCFA Fire Station No. 63
<b>South</b>	Low Density Residential	RS-6	Single Family Residential
<b>East</b>	Low Density Residential	RS-6	Single Family Residential
<b>West</b>	City of Cypress	City of Cypress	Cypress College

Staff recommends the Planning Commission adopt the proposed resolutions approving Site Plan No. SP18-33568, Variance No. V18-32970, and Parcel Map No. PM18-32972 with the findings of fact listed therein.

The property under application is improved with a one-story single family home, and located on the east side of Holder Street between University Way and Via Arroyo Drive. The property maintains street frontage of 80 ft. and area of 12,761 sq. ft.

On October 24, 2018, the Planning Commission held a public hearing to consider the applicant’s request to construct one single-family home with a Variance from minimum street frontage in conjunction with a request to subdivide one lot into two lots. The applicant’s proposed plans indicated conflicting information, and the Commission expressed concern with regard to the proposed driveway. Staff recommended a continuance of the item to a date uncertain to allow the applicant time to revise the plans, as well as seek further input from the community.

On February 28, 2019, staff conducted a community meeting attended by approximately 5 neighborhood residents as well as the developer and architect. In response to the project review by staff, potential neighborhood issues were identified by residents including compromised privacy of neighbors in adjacent single story homes as a result of the proposed new two-story home, use of the new home for short-term rental, and loss of on-street parking.

On August 14, 2019, the Planning Commission held a public hearing to consider the applicant’s request. The Commission voted to continue the item to the next regularly scheduled commission meeting to allow the applicant time to submit revised plans addressing inconsistency of the plans related to the location and orientation of a 2<sup>nd</sup> story balcony.

The submitted Site Plan, Variance, and Tentative Parcel Map propose construction of a two-story single-family home as well as subdividing the site into two parcels, with a new 20 ft. wide private driveway to service both lots. The applicant is proposing to retain the existing one-story home, and will construct a new attached 2-car garage to service the existing home. Upon subdividing the property, the proposed new lot will be 6,720 sq. ft. while the remaining lot will be 6,080 sq. ft. The new single-family home will be 2,344 sq. ft. and will include a living room, kitchen, dining room pantry, laundry room, loft area, four bedrooms, and four and half bathrooms, with an attached two-car garage. The new home will have no 2nd story balconies. The applicant is requesting a Variance from Section 19.308.050 to allow the site to be developed without public street frontage for the proposed rear lot. Access to the rear lot will be located along a proposed 20 ft. wide private driveway. The proposed 15 ft. wide private driveway will be shared between the two lots, and allow access to the proposed 2-car garage servicing the existing home.

The new single-family home will maintain a stucco exterior finish, stone veneer wainscoting, pronounced window and door trim, tile roof, varied rooflines and a tan earth-tone color scheme. A 404 sq. ft. covered porch will wrap around the west and north elevation of the home. And approximately 658 sq. ft. attached garage with multi-panel door is also proposed. The existing 6 ft. tall perimeter walls along the north, south, and east property lines will remain to buffer from the existing adjacent single family residential development.

Planning Commission consideration is required based on the design and configuration of the proposed single family residential subdivision with a requested variance via the Site Plan, Variance and Parcel Map processes. In staff's opinion, the ample property size and configuration constitute sufficient physical characteristics providing eligibility for the requested variance, including 160 ft. lot depth, 80 ft. lot width, and area of approximately 1/3 acre.

In reviewing the Site Plan request, staff believes that the proposed site and building design and configuration, including lot coverage, architecture, scale, and layout of proposed single-family home is appropriate for the subject property. Aside from the requested variance, the proposed development meets or exceeds zoning code requirements for design, height, and lot coverage. The new single-family home will maintain RS-6 compliant setbacks including 20 ft. from the new front lot line; 25 ft. from the rear property line; and 5 ft. and 15 ft. setbacks from the side property lines. Off-street parking will also be compliant with a two-car garage and an elongated driveway suitable for additional parking spaces. Based on the neighborhood concerns expressed at the community meeting regarding concerns expressed about privacy, the applicant has revised the original proposal to include planting of mature trees along the south property line to serve as a visual buffer between the properties, as well as eliminated the proposed 2<sup>nd</sup> story balcony along the west elevation. Furthermore, in response to concerns expressed about short-term rentals, staff has included a condition prohibiting short-term rental use of dwellings, structures, or properties, part or whole, on both lots. Staff feels the home and lot pattern have been appropriately designed to conform to the low-density single-family residential character of the neighborhood and to maintain compatibility with the adjacent low-density single-family homes. Based on the site and building features, as incorporated into the development and as conditioned, staff feels that the proposed project will be consistent with the character of the existing single-family neighborhood and will impose no adverse impacts on adjacent properties.

Regarding the proposed Tentative Parcel Map, staff believes that since the new parcel will exceed the 6,000 sq. ft. minimum lot size requirement, the subdivision will be consistent with

neighborhood development, including adequate access via private 20 ft. wide driveway. The proposed subdivision is consistent with the City's General Plan, Zoning Ordinance, Subdivision Ordinance, and the State Subdivision Map Act. The site reconfiguration will allow appropriate development consistent with the neighborhood development density and pattern, consistent with City goals.

To ensure compatibility with adjacent properties, staff has included conditions that require submittal of color and building material samples prior to issuance of permits, the retention of decorative concrete block walls along all rear and side yard property lines of the development, and landscaping of all front and side yards visible from public view.

The project is Class 32, Section 15332 (In-fill Development), categorically exempt from CEQA.

Notice of public hearing was posted at City Hall, the Buena Park Library, and Ehlers Event Center on August 2, 2019 and 25 notices were mailed to property owners within a 300 ft. radius of the subject property on August 2, 2019.

Chair Barstow asked if there were any questions for staff.

There were no questions for staff.

Chair Barstow 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.

Dennis Heroux, 9201 Via Balboa Circle, said he lives by the back of the proposed project. He expressed his concern that the house, with four bedrooms and four baths, might turn into a short-term rental. He said he is present at this meeting to discuss his concerns about short term rentals, particularly one in his neighborhood by the cul de sac, and asked Planning Commission to take his concerns into consideration when making a decision on the project.

J. Anthony Vittal, representing applicant, JWY Design, Inc., 12803 Schabarum Avenue, Irwindale, CA 91706, addressed Mr. Heroux's concern by stating that one of the conditions on the proposed Variance is that no short-term rental is allowed. He added that the proposal meets all conditions of approval.

Commissioner Capelle, referred to the complaint raised by Mr. Heroux and asked what the consequences are if the homeowner is found to be in violation of the condition/s.

Mr. Woods said the entitlement will be brought before the Planning Commission for review and necessary action.

Mr. Rosen added that a violation of the CUP is a violation of the Municipal Code and would be subject to fines, and civil or criminal punishment.

Commissioner Capelle thanked staff for clarifying the consequences of CUP violation.

There being no one else wishing to speak on the matter, Chair Barstow closed the public hearing and advised that the item requires a Resolution for approval or denial with findings.

Commissioner Capelle moved, and Commissioner McGuire seconded, the motion to adopt the Resolution approving Site Plan No. SP18-33568/Variance No. V18-032970/Parcel Map No. PM18-32972 with findings of fact and conditions therein.

**RESOLUTION NO. 6159  
SITE PLAN NO. SP18-33568  
VARIANCE NO. V18-32970  
PARCEL MAP NO. PM18-32972**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BUENA PARK APPROVING A REQUEST TO CONSTRUCT A NEW 2,344 SQ. FT. SINGLE-FAMILY HOME WITH VARIANCE FROM SECTION 19.308.050 OF THE ZONING CODE FOR REQUIRED MINIMUM STREET FRONTAGE IN CONJUNCTION WITH A REQUEST TO SUBDIVIDE ONE LOT INTO TWO INDIVIDUAL LOTS LOCATED AT 9162 HOLDER STREET (134-041-05) WITHIN THE RS-6 (ONE FAMILY RESIDENTIAL) ZONE, AND MAKING FINDINGS IN SUPPORT THEREOF**

AYES: 6 COMMISSIONERS: Capelle, McGuire, Chung, Desai, Diep, and Barstow  
NOES: 0 COMMISSIONER:  
ABSENT: 1 COMMISSIONER: Schoales  
ABSTAINED: 0 COMMISSIONER:

**3. TEXT AMENDMENT NO. C19-1**

A recommendation to the City Council to amend Division 9 of Title 19 of the Buena Park City Code pertaining to temporary signage regulations.

PROJECT PROPONENT: City of Buena Park  
6650 Beach Boulevard  
Buena Park, CA 90622

RECOMMENDED ACTION: Adopt Resolution Recommending City Council Approval

In reply to Chair Barstow, Ms. Santos stated that John W. Lam, Assistant City Attorney, has two amendments to the proposal which he will discuss in his presentation.

The staff report was presented by John W. Lam, Assistant City Attorney.

Staff recommends that the Planning Commission adopt the Resolution recommending that the City Council approve Zoning Text Amendment No. C19-1, including the amendments included in Mr. Lam’s presentation (and listed below). Mr. Lam discussed Subsection B, Section “12.08.160 Exemptions from permit requirement.” He explained that currently, there is a roadwork permit requirement, and the Buena Park Municipal Code’s definition of

highways could include sidewalks; so, those who comply with the sign ordinance are not required to obtain a permit.

Mr. Lam said the added subsection B prohibits signs that mimic or resemble an official city or governmental sign.

**“12.08.160 Exemptions from permit requirement.**

(A) No permit shall be required for or in connection with the installation of poles, guys, anchors or appurtenances in connection with poles, guys or anchors used or constructed and used under a franchise for public utility purposes where such poles, guys, anchors or appurtenances in connection with poles, guys or anchors are located outside of the paved or improved or traveled portion of the highway. However, such person, exempt under this section, shall comply with all other provisions of this article and shall pay all costs and charges and do all things in the manner and at the time provided in this chapter as if a permit were required. Such person also shall hold the city and its officials, employees and officers free and harmless pursuant to the provisions of Title 1 of this code.

(B) No permit shall be required for or in connection with the display of a temporary sign in compliance with subsection F of Section 19.904.030 of this Code.

19.904.030.3.F.f – Temporary signs shall not mimic or otherwise resemble an official city or governmental signs so as to create confusion or mistake.”

Over the years, the City Council of the City of Buena Park has enacted comprehensive sign regulations under the Title 19, Zoning of the Buena Park Municipal Code (“BPMC”). Because sign regulations inherently implicate First Amendment rights, laws governing the regulation of signs have evolved and continue to do so whenever new court decisions clarify or interpret sign regulation laws. Within this context, and through multiple other court decisions, municipalities have been granted the authority to regulate the location, time, and manner of signage without reference to the content of the message.

In the 2015 United States Supreme Court decision of *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015), the Supreme Court invalidated a municipal sign ordinance that imposed more stringent restrictions on certain types of signs based on the content of the sign, which the Supreme Court held was an unconstitutional “content-based regulation.” Under *Gilbert*, a local sign regulation that creates categories of signs based on information conveyed (e.g. real estate signs, political signs, religious signs), and applies different restrictions on each category, may be challenged as an unconstitutional content-based speech regulation. Unless a content-based regulation is supported by a “compelling governmental” interest, and unless that regulation is “narrowly tailored” to further that interest, it is unconstitutional. This test is rarely, if ever, satisfied in context of traditional public forums like sidewalks and other public rights of way.

The City’s regulations for temporary signs in the public rights-of-way in BPMC Chapter 19.904 have not been updated since the *Gilbert Decision*. Accordingly, the City proposes to make content-neutral clarifications to ensure consistency with recent case law.

The proposed ordinance amends BPMC Chapter 19.904 to enact a content-neutral regulatory scheme establishing reasonable time, place, and manner restrictions and regulations for temporary signs located on public property or in the public rights-of-way.



As discussed above, federal and state law prohibits the City from regulating temporary signs based on subject matter or content. Cities, however, may enact reasonable content-neutral time, place, and manner restrictions that apply to all temporary signage on public property or in public rights-of-way.

The City's existing temporary sign regulations codified under Section 19.904.030(F) prohibit all signs on public property and public rights-of-way, with the exception of signs pertaining to political campaigns, real estate signs, and certain city-related signs. Moreover, each of these "exempt sign categories" is subject to specific standards and requirements.

The attached ordinance proposes an alternative, content-neutral regulatory scheme that is intended to have a similarly "regulatory effect": prohibit obstructions to travel and visual clutter on public property and public rights of ways, while allowing limited and unobtrusive signs to be located. To that end, the proposed ordinance would – like the existing code – prohibit all temporary commercial signs on public property and in the public rights-of-way, but with limited exceptions for certain types of signs based on form factor, size, and location; as opposed to content.

Specifically, the Zoning Text Amendment No. C19-1 proposes to prohibit all temporary signs on public property and public rights-of-way, with the following exceptions:

1. **Official Signs** – Temporary signs associated with the City or other governmental agency, such as: traffic control / directional signs; public notices or signs required by law; signs related to governmental functions; signs about public projects, developments, and events; and banners for special community events.
2. **Temporary Special Event Signs** – Any temporary sign identifying, displaying, directing, or conveying information, idea, or message related to an event or occasion occurring in the City, which does not invite members of the public to attend for the primary purpose of completing a commercial transaction at the location or site. Examples of permitted special events signs include, but are not limited to, signs related to social gatherings, open houses, model home showings, support groups, religious services, and educational meetings.
3. **Noncommercial signs** – Temporary signs that are not commercial in nature are permitted (subject to the below standards).

Additionally, all temporary signs (including special event and noncommercial signs) are subject to the standards and restrictions, including:

- **Design and Size** – Only "A-Frame" or "T-Frame" style signs permitted, with a maximum standing height of 36 inches from the ground, and maximum width of 24 inches, and display panel no more than 4 square feet in area. (See Attachment No. 1 for examples).
- **Placement** – Signs may not obstruct pedestrian movement and:
  - o May not be placed on sidewalks measuring less than 60 inches in width;
  - o maintain a minimum of 48 inches of clearance from any obstruction;
  - o May not obstruct pedestrian or handicap accessibility, curb ramps, emergency exits, transit stops, or parking spaces;

- Shall not be placed on any medians;
  - Shall not be placed within or project over any street, alley, roadway, or highway intended for vehicular traffic;
  - Shall not be placed, affixed, or attached to any landscaping or public infrastructure;
  - Shall not project over any public walkway, alley, or public property;
  - No more than four (4) A-Frame or T-Frames signs (or any combination thereof) may be placed by any person or entity, and only one (1) sign may be placed on each side of a block.
- **Permitted Hours of Display / Time Limitations** – Signs are only permitted during the hours of 7:00 a.m. through 7:00 p.m., and at all other times shall be removed from public property or public rights-of-way and stored out of the view of the public. Additionally, special event signs are not permitted more than 30 days prior to that date of the event or occasion, and must be removed 10 days after.
- **Violations; Removal; and Penalties** – The City is authorized to immediately remove any sign in violation of the Ordinance. Signs may be retrieved upon payment of a fee established by resolution of the City Council to cover the City's costs associated with sign removal and storage. If the signs are not retrieved after 21 days, the City may dispose of the signs. In addition to immediate removal, signs violating the Ordinance may also be subject to criminal, civil, and administrative remedies set forth under the Municipal Code.

Aside from clarifying the City's existing regulations consist with the Gilbert Decision, Zoning Text Amendment No. C19-1 furthers various governmental interests, including: accommodating the need for orderly expression in traditional public forum areas; preserving and enhancing the appearance of the City; serving public safety interests; and advancing the goals, policies and programs of the City's General Plan.

Staff recommends that the Planning Commission take public testimony on the proposal, and following any questions of staff, adopt a Resolution recommending the City Council approve Zoning Text Amendment No. C19-1.

The Resolution recommending approval of Zoning Text Amendment No. C19-1 is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations, sections 15060, subdivision (c) (2) on the basis that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and Section 15061, subdivision (b) (3) because there is no possibility the activity in question may have a significant effect on the environment.

Notice of this public hearing was published in the Orange County Register and posted ten (10) days in advance, as required by law.

Chair Barstow asked if there were any questions for staff.

Commissioner Desai asked if open house signs on the same road are required to be within 500 ft. apart.

Mr. Lam clarified that while the proposed ordinance limits real estate signs to four per location, it does not put restrictions on distance from other signs.

Commissioner Diep asked if signs of various sizes on chainlink fences are prohibited, such as those on the side of Malvern where there is a chainlink fence adjacent to the flood control channel.

Mr. Lam said signs adjacent to right-of-way but on private property are not regulated by the City; only those on public property and right-of-way are under City regulations. He said the direction from City Council during the study sessions was to regulate City owned properties and those in the right-of-way. He explained that the site referred to by Commissioner Diep, although owned by another governmental agency, is not City property and therefore cannot be regulated by the City.

Commissioner Diep said the regulation can pose certain difficulties such as determining where to post and not post unless the City can provide a map indicating locations that are City-owned and those that are in the right-of-way, or areas where signs are allowed and disallowed.

Mr. Lam said Public Works and Community Development may be able to provide that information through maps and other documents. He said violations will probably be handled through warning notices first.

Commissioner Diep asked and Mr. Rosen confirmed that signs on chainlink fences in the flood control channel are not regulated by the City and can only be taken down by the property owner if signs were posted without the property owner's approval. He added that signs can only be posted on private properties with the permission of the property owners.

Commissioner Capelle said that although the intent of the proposed text amendment is to bring the Municipal Code into compliance to prevent discriminating against content, it can be challenged in the future. She said some are arbitrary and within the discretion of the City. She said she noted that the proposal is carefully crafted under the knowledge of current court cases but things could change depending on future case laws.

Mr. Lam said the First Amendment interpretation, over the last 50 years, has morphed and evolved, the intent of the proposed Text Amendment is to eliminate some content-based restrictions to prevent discrimination, identifying the signs as commercial and non-commercial, with neutral content.

Chair Barstow referred to the permitted hours of display – 7:00 a.m. to 7:00 p.m. for all signs and asked if that includes election signs and, if so, he asked how that would work – putting up and taking down the signs to comply with the allowed hours.

Mr. Lam said the rule applies to election signs and all non-commercial signs and commented that there is also an option to put political signs on private properties, with consent from the property owners.

Chair Barstow asked about rules on banners that overhang on the streets.

Mr. Lam said the signs that overhang on public streets are subject to Building and Safety codes.

Chair Barstow 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.

There being no one else wishing to speak on the matter, Chair Barstow closed the public hearing and advised that the item requires a Resolution for approval or denial with findings.

Commissioner Capelle moved, and Commissioner Diep seconded, the motion to adopt the Resolution recommending City Council approval of Text Amendment No. C19-1 with findings of fact and conditions therein, including the amendments presented at this meeting.

**RESOLUTION NO. 6160**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BUENA PARK RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING TEXT AMENDMENT NO. C19-1 AMENDING CHAPTER 19.904, DIVISION 9, TITLE 19 OF THE BUENA PARK MUNICIPAL CONCERNING SIGNS ON PUBLIC PROPERTY AND PUBLIC RIGHTS-OF-WAY**

AYES:	6	COMMISSIONERS:	Capelle, Diep, Chung, Desai, McGuire, and Barstow
NOES:	0	COMMISSIONER:	
ABSENT:	1	COMMISSIONER:	Schoales
ABSTAINED:	0	COMMISSIONER:	

**ORAL COMMUNICATIONS:**

None

**AGENDA FORECAST:**

Mr. Woods said there are currently no items scheduled for the next meeting. He will update the Commissioners.

**STAFF REPORTS:**

Mr. Rosen informed the Commission of City Council approval of the Final Tract Map for 8925 Orangethorpe Avenue to allow the subdivision of an existing parcel for condominium purposes.

In response to Commissioner Diep, Mr. Rosen described the City boundaries on the subject property.

**COMMISSION REPORTS:**

None

**ADJOURNMENT:** At 7:40 p.m., Chair Barstow adjourned to the Study Session/Workshop immediately following the Planning Commission meeting in the City Council Chamber.

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Larry Barstow  
Chair

ATTEST:

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Joel W. Rosen, AICP  
Secretary

DRAFT

**CITY OF BUENA PARK  
PLANNING COMMISSION**

**STUDY SESSION MINUTES  
AUGUST 28, 2018**

The Planning Commission of the City of Buena Park convened in a Study Session at 7:45 p.m. on August 28, 2019, in the City Council Chamber, 6650 Beach Boulevard, Buena Park, California with Chair Diep presiding.

PRESENT: 6 COMMISSIONERS: Capelle, Chung, Desai, Diep, McGuire,  
and Barstow

ALSO PRESENT:

Joel W. Rosen, AICP, Director of Community Development  
Brady M. Woods, Planning Manager  
Swati Meshram, PhD, AICP, LEED AP, Senior Planner  
John W. Lam, Assistant City Attorney  
Ruth Santos, Senior Administrative Assistant

Chair Diep Barstow called the Study Session to order at 7:45 p.m.

**STUDY SESSION:**

**STUDY SESSION AND STAKEHOLDER WORKSHOP FOR DRAFT  
SHORT-TERM RENTAL REGULATIONS**

The report was presented by Dr. Swati Meshram, Senior Planner.

Renting of residential units for a period of less than 30 days are known as short-term (vacation) rentals (STRs). Short-term vacation rentals generally include the temporary rental of homes or portions of homes, condominiums, or apartments, typically brokered by third party on-line web sites such as Airbnb, VRBO, Home Away and other similar internet-based businesses. These internet-based businesses have expanded the opportunities world-wide for travelers to obtain short-term vacation lodging. Currently, STRs are not explicitly permitted by the Zoning Ordinance and are therefore prohibited.

The City contracted with an internet-based company (Host Compliance) to assist the City in identifying the location and number of STRs operating in the City. Host Compliance currently estimates there are approximately 80 STRs operating in the City. Since May 2018, when Code Enforcement staff began tracking STRs, staff has received complaints regarding nine properties. The complaints generally related to late night noise/activities, traffic, parking and trash.

On May 14, 2019, the City Council adopted a temporary moratorium via an Urgency Ordinance to further clarify the City's existing prohibition of STRs. On June 25, the Council extended the moratorium to August 13, 2019. On August 13, the Council

extended the moratorium until May 14, 2020. Additionally, the Council directed staff to begin drafting regulations to permit STRs, while assuring appropriate controls to avoid negative impacts on nearby properties. Staff presented policy considerations to the City Council at a Study Session on July 9, 2019, and offered to seek community input during the process of ordinance formulation. A summary of comments received during all the above mentioned City Council meetings is available as Attachment 1.

Working with the City Attorney's office, staff prepared a preliminary draft ordinance. Key features of the draft ordinance include the following:

1. Annual permit requirements;
2. STRs must be hosted by the residential property owner and provide proof that the property is their primary residence;
3. Operating regulations addressing occupancy, noise, parking, trash;
4. Separation requirement of 300 ft.;
5. Inspections for compliance with Building and Fire Codes;
6. Public notice prior to permit issuance;
7. Payment of Transient Occupancy Taxes (TOT) at the same rate as hotels;
8. Permit revocation process

The preliminary draft ordinance was made available to all stakeholders via the City website on August 16, 2019, and via Planning Commission Agenda packet on August 22, 2019. Staff also created a dedicated email account [STRComments@buenapark.com](mailto:STRComments@buenapark.com) to collect any comments received prior to this study session/workshop.

The purpose of this study session/workshop is to solicit community and Planning Commission input on the proposed regulations. All comments received will be considered prior to review of the ordinance by the Planning Commission and City Council at noticed public hearings.

It should be noted that to assure compliance with the final ordinance requirements for STR regulations, increased staff resources will be required for monitoring and enforcement. A proposed fee schedule for permitting and inspection will be developed and presented to Council in conjunction with the proposed ordinance. Those fees will be developed to offset staff and/or consultant enforcement costs.

Chair Barstow asked if there are any Commissioner questions of staff.

Commissioner Desai asked how the required two parking spaces in the garage would work considering that most homes do not utilize their garages for parking.

Dr. Meshram said every single-family home located in the RS-6 zone and is required to have a two-car garage. She clarified that the proposed requirement is to have the garage free of storage that would restrict the parking of two vehicles, thereby allowing parking space/s for guests' cars.

Commissioner Diep commented that homes with quasi businesses should be required to have adequate parking as is required of other businesses. Parking requirements for short-term rentals must ensure that homeowners and guests will have sufficient parking without resorting to street parking which can exacerbate parking problems. She

commented that she has seen and heard that most non-Fourth of July fireworks come from short-term rental homes and suggested that under the house rules which guests must sign to signify their agreement, fireworks should not be allowed, except on the Fourth of July.

Commissioner Diep asked if CC&Rs override City ordinances.

Mr. Lam clarified that CC&Rs layer on top of City regulations and if CC&Rs prohibit short-term rentals, that rule is enforced by CC&Rs/the Home Owner's Association, and not necessarily by the City.

Commissioner Diep asked how the City determines, during the short-term rental application process, if the applicant/property owner is under a CC&R. She asked if the City has a list of properties with CC&Rs.

Dr. Meshram said the City has a list of subdivisions under CC&Rs/HOAs; some CC&Rs are old and may require research; some applicants may not be aware that they have a CC&R, others might withhold it; if the information on the permit application form is found to be incorrect, the permit could be revoked, with corrective measures taken.

Mr. Rosen said applicants under a Home Owner's Association (HOA) with CC&Rs are required to have their plans stamped/signed off by the HOA before issuance of Building permits.

Dr. Meshram added that page 4, no. 17 of the draft ordinance requires the applicant to submit a "Letter of No Objection from the Home Owner's Association (if applicable.)"

Commissioner McGuire asked if a homeowner's insurance is sufficient to cover the short-term rental use and if not, then it is appropriate to require proof of adequate insurance from short-term rental applicants.

Mr. Lam said that it is his understanding that a homeowner's policy does not cover short-term rental use; there is possibly a separate policy that covers short-term rentals; certain short-term rental providers or platforms probably provide that insurance.

Commissioner McGuire asked about regulations for short-term rental homes with swimming pools and if those homes are subject to regular inspections.

Dr. Meshram said page 6, no. 14 of the proposed ordinance states that "All pools and bathtubs (sic) must meet all State of California requirements and Swimming Pool Safety Act." She added that short-term rental homes are subject to initial and regular inspections.

Mr. Rosen said that due to lack of staffing, inspections can also be done by contract Building and Code Enforcement inspectors.

Commissioner McGuire recommended that the State of California Swimming Pool Safety Act be included in its entirety, not just by reference, in the ordinance.



Commissioner Capelle said she is studying both sides of the issue; understands that there are reputable short-term rental owners who want to protect their right to rent out their property, and there are neighbors who want to protect their right to a quiet and enjoyable neighborhood and who have reasonable expectations of the character of their community; she understands that in certain households, short-term rentals help supplement income and pay mortgage; she wants to see a clear distinction between owner-occupied units vs. short-term rentals that are part of a chain with the property owner unable to monitor the activities in all locations. Commissioner Capelle said she is eager to hear from those in the audience at tonight's meeting and complimented staff on the careful decision-making process.

Chair Barstow said there is a short-term rental house located in his neighborhood, it was remodeled after the owner died; he sees many people, one time at the pool till midnight, but the house is kept clean, the house is well-maintained, and he does not mind, he did not even know about the property being a short-term rental. Chair Barstow said he would like to hear comments from the public.

Chair Barstow opened up the community workshop and turned the discussion over to Dr. Meshram to facilitate the workshop.

Dr. Meshram announced that speakers will be generally given five minutes to speak except for one who will speak for her coalition members.

**Cassandra Elliott**, Buena Park Coalition, 7812 La Habra, said she lives with her mother Kathleen; she is here to also speak on behalf of the coalition members; she has attended meetings with the coalition and City staff, and with other city coalitions regarding concerns that she will express tonight.

**Ms. Elliott's concerns/comments/questions regarding the draft ordinance are as follows, as quoted verbatim from Ms. Elliott's e-mail and what she read from during her public comments:**

"An effective ordinance should simply establish specific guidelines to promote the pros and mitigate the cons and is an equal balance between personal property rights and communal rights; homeowners should have the freedom to choose how to achieve those goals according to specific principles established by the ordinance. That is why I find the following items problematic in the drafted ordinance, making them practically impossible for short-term rental hosts to operate:

I. The following definitions are overly-broad and defy common usage and understanding of the terms:

a. "Renter"

i. If a property owner offers his/her living space for a family member or friends less than 30 days for free without any form of advertising, that person staying at the space is not truly a "renter" because the common understanding of a "renter" is someone paying money in exchange for goods/services.

ii. Proposed alternative definition: "Renter means a person who pays rent on behalf of himself/herself or on behalf of a group of people for occupancy purposes." This is the common understanding of a renter, and "rent" and "occupancy" is already defined in chapter 3.16.

b. "vacation rental"

i. I should not have to apply for a "vacation rental" permit if I simply invite my church friends, grandpas, grandmas, relatives, and/or significant other to stay at my home for a few nights and/or weeks if I am not advertising or asking for rent. Why am I being forced to pay fees to obtain a permit and have property inspection simply because I want to have my friends and/or family stay overnight?

ii. Some people who lodge short-term are not simply there to "vacation". There are individuals and/or groups who come due to medical procedures, work, relocation, and/or natural disasters.

iii. Proposed alternative term: "Short-term rental means the rental of a short-term rental unit for occupancy less than 30 days." (Here "occupancy" is already defined in chapter 3.16)

c. "vacation rental unit"

i. If I am not advertising certain spaces to rent out, the non-advertised portion is not a "rental unit" because renters have the common understanding that they are paying for the services of the advertised goods/services.

ii. If I am a homesharer, I am not at all comfortable with inspections on every aspect of my home simply because a short-term renter stays there. This is very invasive of my personal privacy and opens a Pandora's box to arbitrary code enforcements on non-updated portions of my home, which puts unfair burden on me.

iii. Alternative definition – "Short-term rental unit means the structure in which the renter of a short-term rental resides."

II. The following requirements are extremely invasive of personal privacy, violate my rights of equal protection under the 14th amendment of the U.S. Constitution, and present overbearing burdens on property owners:

a. Notices to neighbors prior to approval of a permit - This is opening up a Pandora's box for increased neighbors' vigilance to induce complaints, setting up neighbors against neighbors, breaking up community peacefulness. This consideration encourages biased neighbors to make up lies and exaggerate nuisance complaints as an attempt to shut down a short-term rental unfairly, which increases burden on staff and unnecessary use of city's resources. Thus, giving neighbors veto power to final approval of a vacation rental permit encourages discrimination, which is an unfair policy practice.

i. No other cities are doing this, so what is the legal basis to support this policy consideration that infringes on property rights and privacy?

ii. Whenever a homeowner does remodeling, is that homeowner required to send notices to neighbors for comments? Are long-term rentals, local businesses, home-based businesses, and hotels required to do so? I don't think so. The same principle should apply to vacation rental.

iii. FACT: One of the Anaheim council member lives directly next to a short-term rental. The member likes the fact that whenever there is an issue, the member can contact the host immediately, and the problem is resolved within 24 hours, whereas if that issue involves a long-term tenant, there is nothing council member can do.

iv. Suggested regulation:

1. Similar to Corona, because the owners immediately adjacent to the vacation rental unit is most affected by the vacation rental, as part of the checklist on the application, require the permittee to provide owners immediately adjacent to the short-term rental a Good Neighbor pamphlet with host's contact information so if any issues arise, to first contact the host and the Buena Park Short-Term Rental Coalition before involving the city.

a. Pros #1: saves staff time, money, and resources from unnecessary involvement if neighbors can learn to resolve issues by themselves. By minimizing workload load on staff, city's resources can better be spent on beautifying our city or going after other building code violations that genuinely cause property and neighborhood depreciation.

2. If the STR host does not respond within 1 hour since the complaint, then the neighbor can involve a member of the Buena Park STR Coalition, and if the Buena Park STR Coalition cannot help resolve the issues, then the neighbor can involve the city. PROS #2: This way, privacy issues are resolved, discrimination/unfairness can be prevented, saving cities from potentially costly lawsuits.

3. Neighbors are required to provide valid, verifiable proof to support the complaint before involving the city. PROS #3: By weeding out illegitimate complaints, enforcement burden decreases on city staff.

4. Similar to Dana Point and Garden Grove, city can add on the website of specific links related directly to complaints against a short-term rental.
5. A complaint hotline so hosts can respond to complaint within 1 hour

b. Required front door entrances/exits

i. CREATES A HEALTH AND SAFETY ISSUE.

a. Forces renters to drag the trash cans through the front door, which is unsanitary.

b. What about the gardener or pool servicer? Do they also need to drag their equipments and chemicals through the front door, which can potentially create health and safety hazards for children, the elderly, or the disabled living in the

ii. Long-term renters, ADUs, and/or residents are not required to enter or exit through front door. Neither should short-term rental

iii. A side fence, with side entrances, are created to be used, and this is an individual choice of the homeowner and should be respected

iv. Many private hosts and renters prefer to have separate entrances for extra privacy.

c. Guest registration requirements – the laws forbid this requirement. New York City has a similar requirement, and the court ruled it unconstitutional.

d. Hosted accommodations. What is the reasoning for requiring the presence of a host or authorized agent if you already require that the host or authorized agent respond within 1 hour of a complaint? A rental is not the same as an assisted living facility, a childcare-care, or a hospital that covers food or “babysitting” the renters. You do not have that requirement for local businesses or landlords of long-term rental units, so short-term rentals should not be singled out.

e. survival kit (e13). Does the city require hotels to provide survival kits for every single renter? What about landlords of long-term rentals, local businesses, or residents not doing rentals? If the answer is NO, then vacation rentals should not be required to do so either.

i. This requirement puts unreasonable burden on hosts because of the extra costs of food and water

ii. Unless the listing advertises a “Bed and breakfast”, which is a different kind of business, a working radio with batteries is a reasonable requirement

f. Inspections limited to only the "vacation rental unit", not "vacation rental premise"

g. Outdoor gatherings limited to 4 persons during quiet hours. This is private property rights. As long as the guests abide by the Good Neighbor policy in not creating any noise as to disturb residents' peaceful enjoyment of the home, it should be no problem.

III. The following items are vague and need clarification

a. What is an "adequately shielded" exterior lighting "to minimize light pollution" (f11)?

i. How are city lights not equally guilty of "light pollution"?

ii. What is the standard of evaluating "adequately shielded"?

iii. Inadequate lighting can pose a safety issue for renters and households

b. What is considered "an approved appliance or enclosure" (e8)?

IV. Most cities such as San Diego, Long Beach, and Corona simply have a permitting scheme for "vacation rental", not having to abide by Business License Ordinance because short-term renters use the properties the same way as residents or long-term renters do; it is not a commercial use of property. Therefore, a conditional use permit is unnecessarily costly and presents undue burden on owners. Also, ordinance 5.00.240 provides Exemptions for Certain home occupations, and hosted accommodations fall under these exemptions.

V. "2 persons per bedroom... [no] more than 8 persons to sleep at one time" is overly restrictive and unreasonable for larger families and larger homes.

a. Discriminates Against Larger Families With Minor Children and/or Single Parents

i. Scenario 1: It is not uncommon for multiple families with minor children to travel together to save costs on lodging. For example, two young families, each family having at least one minor child, decides to travel together and rent a 2 bedroom home, one family using a bedroom, and the policy excludes these types of demographics.

ii. Scenario 2: A single mom with an infant and two toddlers will not be able to rent because her children do not feel comfortable sleeping alone. The policy excludes these travelers.

b. Federal laws do not specify occupancy limits, but the law should be reasonable so that it can accommodate larger families with minor children or single parents. Therefore, it is common for cities to create a "2 persons" limit meaning "2 adults (over the age of 18)".

i. The California Health and Safety Code is similar to the Uniform Housing Code. The Uniform Housing Code requires that residential

units have at least one room with an area of at least 120 square feet and that other rooms to be lived in be at least 70 square feet. If more than two people sleep in a bedroom, it must be at least 50 square feet larger for every additional occupant sleeping in that room... Similar to federal law, the California Fair Employment and Housing Act prohibits discrimination against families with minor children in many housing-related matters, including home rentals.

<https://legalbeagle.com/12167016-occupancy-limit-regulations-california.html>

ii. “no more than 8 persons be allowed to sleep at the vacation rental unit” is unreasonable for a larger home with more than 4 bedrooms; hosts should be able to utilize all their available bedrooms. If the concern is renters taking parking away from neighbors, then create a policy to address the issue.

Suggested change: Renters cannot park on neighbors’ street curb and/or parking spaces.

c. This is how LA is defining occupancy limits, which I think is reasonable & is consistent with the law: Occupancy Limits. A maximum of two persons (excluding children) per Habitable Room may sleep in a Home-Sharing unit (Maximum Sleeping Capacity). The Host shall identify the number of Habitable Rooms and include an e-signed Declaration that he/she will not advertise nor book any guest stays that exceeds the Maximum Sleeping Capacity. A Habitable Room (defined in LAMC Section 12.03) includes any enclosed room area with the exception of any lobby, hall, closet, storage space, bathroom, utility room or service porch. For purposes of this Ordinance, an open kitchen that is part of another room is considered a habitable room, as is a recess from a room or an alcove (other than a dining area) having 50 square feet or more of floor area and so located that it could be partitioned off. ([http://clkrep.lacity.org/onlinedocs/2014/14-1635-S2\\_rpt\\_PLAN\\_06-13-2019.pdf](http://clkrep.lacity.org/onlinedocs/2014/14-1635-S2_rpt_PLAN_06-13-2019.pdf))

## VI. The Pros of Entire Home Rentals Outweigh the Cons

a. No shortage of long-term housing stock to justify the ban against entire home rentals. A quick search of [www.forrent.com](http://www.forrent.com) reveals at least 70 housing units available for long-term tenants; this is more than the current short-term rental units in Buena Park! A quick drive around the city also reveals advertising of many units available for rent; if there is a shortage of housing for long-term renters, then there should be minimal availability of housing stock for long-term rentals.

i. Hosts of short-term rentals are not interested in renting out long-term. Most short-term rental hosts have purchased the home within the last decade, which means that in today’s

**upside down market**, long-term rental is not enough to pay the mortgage, taxes, insurance, and maintenance.

ii. FACT 1:

A 4b,3b house (88 Revell Cir., Buena Park, 90620) rents for \$3,295. A similar property in the same zip code (9170 Via Balboa Cir., Buena Park, 90620) recently sold for \$719,000, and the mortgage alone is ~\$2700, taxes of .74% is ~\$433, which makes a total of ~\$3,100 of mortgage and taxes alone, and with property insurance, utilities, and routine maintenance, there is no way to profit from long-term rental in today's market. The stakeholders that can profit from long-term rental are those that own multiple multi-family units, but short-term rental hosts cannot make a living off of long-term rental, thus there is no incentive to rent long-term.

b. Direct Positive Budget Impact

i. Banning whole house rentals simply takes money out of city's pockets into other cities that allow STR.

ii. FACT 2: hosts of entire home rentals will sell the home and use the profit to invest in other cities that currently legalizes short-term rentals, such as RICH cities of Anaheim, Corona, and Newport Beach, bringing more revenue to those already rich cities. Some members of the Buena Park Short-Term Rental Coalition have already put their house on the market due to ordinance 1661.

iii. Entire home rentals make two to three times more money than owner-occupied properties. Potential **TOT of \$1.5 million mainly comes from ENTIRE HOME RENTALS.** A portion of the TOT can be used to:

- a. FACT 3: **government aid to the city concerning homeless shelters WILL EVENTUALLY RUN OUT.** HELP THE HOMELESS
- b. Enforcement against the "bad apple"
- c. Fund affordable housing projects
- d. beautify our city/neighborhood

iv. **FACT 4: Long Beach and Anaheim celebrates at least an annual over \$1 million in TOT mainly due to entire home rentals**

v. **FACT 5: Anaheim struggled with its ban of STRs, so now it reverses its ban in favor of regulation, including entire home rentals. The city has extra funding that can**

**be used towards homeless centers and to improve neighborhoods.**

- vi. PRESERVES PRIVACY and EQUAL PROTECTION, decreasing exposure to COSTLY LITIGATION. Some hosts and renters have an extreme need of privacy, and they do not want to share spaces. Entire home rentals meet the needs of both hosts and renters who need that extra personal space and privacy.
  - vii. Entire home rentals attract larger families that spend more, thus generating more revenue to local businesses, and city hugely benefits from the multiplier effect of sales receipts due to increased tourism.
  - viii. STR hosts use **word-of-mouth advertising** for the city by pointing out to major tourist attractions. **After talking to our guests, believe it or not, most people have never heard of Knott's Berry Farm if it wasn't for the hosts!** Guests come for Disneyland and end up visiting at Knott's, Soak City, Adventure City, Medieval Times, Pirates Dinner Adventure, The Source, and soon the Butterfly Palladium.
- c. Decreased Enforcement Burden. Existing entire home rentals might be forced to go underground, and the result is city loses revenue due to increased enforcement costs while collecting less TOT & revenue.
- i. FACT 6: According to Host Compliance, Santa Monica currently struggles with enforcement of the ban against whole home rentals. According to Host Compliance, "the law isn't fully working as intended... Rather than turning first to a full out bans, local governments should consider if it may make more sense to put in place compromise regulatory frameworks that allow short-term rentals that meet certain requirements while protecting the interests of the broader community. By doing so, communities can harvest the benefits of this new industry and avoid exposing themselves to expensive and time-consuming legal battles. Cities like Denver, Los Angeles, and Vancouver, British Columbia, are doing just that. While the specifics vary, the underlying idea is the same: Explicitly identify the unwanted behaviors and negative consequences of short-term rentals, and devise specific, practical policies to mitigate them.
  - ii. With the advancements in big-data technology it is now possible to enforce such policies, and identify addresses of short-term rentals to bring them into compliance with local rules. Many innovative municipalities including Truckee,



California; Durango, Colorado; Asheville, North Carolina; and Islamorada, Florida, already use such tools and have seen double-digit improvements in compliance and revenue. This allows these cities and counties to double down on enforcement to further ensure that short-term rental operators stay within the designated zones, pay their fair share of taxes, and are accountable and respectful of neighbors. (<https://hostcompliance.com/short-term-vacation-rentals-bans-gone-wrong>)

d. Appreciated Neighborhoods And House Prices, Improving City's Economy. According to "Do Airbnb properties affect house prices?", an economic study by Stephen Sheppard of Williams College Department of Economics and Andrew Udell of Dropbox, Inc., the authors conclude that entire home Airbnb properties increase home values by 17% and neighboring properties increase by 3.5%.

i. These statistics imply that if entire home short-term rentals are taken off the market, house prices will depreciate, and the neighborhood suffers. This is of particular significance in Buena Park because the median home sales in Buena Park is \$153,000 less than the rest of Orange County ("2018 statistical summary", SCAG, 2019 Local Profiles), which implies Buena Park's financial strengths is weaker compared to the rest of Orange County.

ii. Therefore, the authors "advise caution in crafting policies that ban Airbnb or similar short-term private rentals altogether. Public policies that reduce house prices in pursuit of housing affordability by diminishing the efficiency with which an owner can make use of his or her property may fail to be welfare-improving, in the same way as a city that creates "affordable" housing by encouraging more crime hardly seems desirable."

e. Extra Savings Decrease Financial Reliance On Government Help

i. Medi-Cal, SSI, SDI, food stamps is not enough to support Californians comfortably.

ii. Assisted living and retirement homes costs on average \$8,000 monthly. Entire home rentals DECREASE BURDEN ON CHILDREN TO SUPPORT THE ELDERLY.

iii. EXTRA SAVINGS FOR THE YOUNGER GENERATION IN AN APPRECIATED MARKET

1. REALITY CHECK 1: Our kids RAISED in Buena Park will grow up in a market in which house prices will be much more than what they will make. Extra savings can help for our kids' down payment to keep our kids residing in Buena Park to be close to their parents in their old age,

for companionship, extra care, and communal involvement to build up the community.

2. REALITY CHECK 2: Estimated **annual cost** for getting a bachelor in a UC is \$35,000 (8/28/19, <https://admission.universityofcalifornia.edu/tuition-financial-aid/tuition-cost-of-attendance/#targetText=%20UC%20undergraduates%20at%20all%20campuses.of%20additional%20campus%2Dbased%20fees.>). A professional degree such as medical or law degree is at least \$200,000. If more kids can graduate debt-free, they are more prone to give back and/or invest in their community through altruistic community services.

F. Altruistic For Families Who Cannot Afford The Luxuries Of A Hotel

G. Proposed regulation:

i. Please reach out to Airbnb and other hosted sites to remit taxes to the city directly. Airbnb developed a tool, the Voluntary Collection Agreement (VCA), to ensure that TOT is collected and remitted while relieving hosts of tax filings and cities of the burden of collection and enforcement.”

Chair Barstow recessed the meeting at 8:55 p.m. and announced that the meeting would be reconvened at 9:00 p.m.

The meeting was reconvened at 9:00 p.m.

**Danh Hong**, Santa Ana, stated that his daughter is the owner of a short-term rental in the City. He said he agrees with Cassandra Elliott who said that the term vacation rental should be replaced with short-term rental because short-term rental refers to 30 days or less stays; wants to know why a permit or license is needed - if he and his wife stay for a few days in their daughter's house upon invitation from their daughter and if their daughter does not collect rent from them, why should her short-term rental be subject to inspection; wants to know why guests should be required to use only the front door for entrance and exit – how about guests to want to help put the trash bin on the sideyard using side door, and does the gardener have to enter through the front door and not the side door?; wants clarification on exterior lighting requirement – how is exterior lighting different from City lights aimed to prevent accidents or falls; these requirements should also apply to all homes, including long-term rentals; if not, it would be a violation of the 14<sup>th</sup> Amendment of the U.S. Constitution.

Dr. Meshram clarified that the requirement to use the main door for entrance is exit only applies to the quiet times – from 10:00 p.m. to 7:00 a.m.

**Dennis Heroux**, 9201 Via balboa Circle, said he did not have the time to go through the proposed ordinance; there is a short-term rental located in their cul-de-sac; the property owner's sole purpose of purchasing the home was to put up a short-term rental and not in connection with taking care of mother; a moratorium was put in place by the City yet the property owner of the short-term rental continues to operate; when confronted, she

said if the State allows it, why should the City stop her from operating it; he commended those property owners who stopped operating their short-term rentals when the moratorium was enforced; if the neighbors do not want a short-term rental on their street, the City should abide by the neighbors' wishes; short-term rentals can lower property values of surrounding homes; he and his neighbors are affected by noise and traffic coming in and out of the cul-de-sac; use of main entrance should be required – his guests use his front door to enter and exit, short-term rental guests should do the same; the noise complaints that used to come from the property owner of the house on the side stopped because the owner moved out for good. Mr. Heroux asked the City to include him in the notification list for short-term rentals.

Dr. Meshram informed Mr. Heroux he is included in the notification list, and communications regarding short-term rentals are also facilitated through [strcomments@buenapark.com](mailto:strcomments@buenapark.com).

**Wilson Navarro**, 6451 Pheasant Circle, said he has lived in the City for a little over 30 years; he purchased a short-term rental six months ago before the moratorium was put in place; he represents a sub-set group of whole-house rental owners; he understands the concerns of staff and City, and those of the speaker who complained about the short-term rental on his street, that short-term rental is advertised as a party house; it is too bad that one “bad apple” is causing all the issues, while other responsible short-term rental owners like him have to create special locations to attract families; he got a management company that monitors the premises and cameras on his short-term rental, with the front door camera showing the guests as they enter and exit; if number of guests exceed what was on the registration form, the guests are immediately notified of the violation; he provides a safe and secure place for families to enjoy their vacation; his neighbors have his phone number – a neighbor called him once, not to complain about his guests, but to let him know that his gardener left trash on the side of the neighbor's house, and he got there in half an hour. He can easily get to his short-term rental house because he lives close by; he has been in business for six months now but unfortunately, the City put a homeless shelter in that area on Caballero and it is a shame that he will have to make a decision to sell or move, the circumstances are completely out of his control; it is important for the City to understand that there are responsible short-term rental owners who do not want their business to be detrimental to the City; he urged the City to put the right regulations in place including limiting the number to one short-term rental per owner.

**Bryan K. Nguyen** His concerns/comments/questions regarding the draft ordinance are as follows, as quoted verbatim from Mr. Nguyen's e-mail and notes that he read from during his public comments:

“Here are some facts and comments as I ask for your advocacy in allowing wholehome STRs in addition to the sharehome STRs. I hosted about 130 families with zero incident or complaint and 5 Star rating across the board from my guests. All my neighbors are fully aware and fully support my wholehome STR. My next door neighbor has the key to my gate and offered to wheel our trash bins out and back in on trash day and I took advantage of his offer more than once on those days I couldn't get back early enough to do it myself.

The recently drafted STR ordinance excluded wholehome STRs completely. As I remember, during various City Council Meetings, at least two Council members opined favorably for wholehome rentals and I think the draft should at least include this option for your consideration.

Allow me to share some facts that might re-affirm your support for the wholehome type of STRs:

- With a wholehome rental, larger vacationing families can stay together where homeshare STRs with only 1 or 2 bedrooms in sharehomes cannot accommodate. It would also take multiple hotel rooms to accommodate a family of 6 to 8 if they're open to the option of staying at the hotel rooms. It was already presented to you with fact in the previous council meeting that the STR guests are not the type to stay at hotels. They will simply find some other home accommodation elsewhere.
- Wholehome STRs provide complete privacy and sense of security to renters. Many parents/grandparents are not comfortable with having strangers around their kids. This cannot be provided with Homeshare STRs, much less with hotel/motel accommodations.
- Wholehome STR owners are more inclined to control their properties and abide by the laws and regulations as they have much more to lose in case of non-compliance or violations. Speaking for myself, I am the sole provider for my family with my day job. My wife does the cleaning and managing of our STR while caring for our 3 children. If I lose my STR, we will struggle so we understand our risk and go beyond to make sure we and our guests are in compliance
- Wholehome STRs are the powerhouse when it comes to TOT possibility and revenue generation for the City as they command higher booking fees comparing to Homeshare STRs. A wholehome revenue is typically 3 to 4 times higher than 1 homeshare.

Projected revenue and TOT from one typical 3-bedroom home:

	\$
Monthly revenue	6,500
Month hosted	12
	<hr/>
	\$
Annual Gross	78,000
TOT	12%
	<hr/>
	\$
<b>Remit to City</b>	<b>9,360</b>

Yes. **\$9,360** annually to the City of Buena Park from 1 single Wholehome rental. Of course, our family don't make anywhere near this number. We have mortgage, property tax, insurance, operating expenses and our income tax. We ended up a bit better than not having the STR as we charge for cleaning fees and my wife does the cleaning. In exchange, we secure a 2<sup>nd</sup> home, build equity and give our children a head-start in this ever rising California home price.

However, the TOT to be remitted to the City is unchanged as it's taken off the top.

If you're worried about how to monitor a wholehome STR if we are not there to manage it, I can share that it is no more difficult to control than a homeshare STR with today's technology. If the availability of the owners in homeshare STRs is the main criteria for your consideration, wholehome STRs could easily provide because:

- The listings expressively prohibit parties/events;
- Aids of monitoring devices such as outside camera to verify the number of occupancies and monitor activities. I know exactly when my guests come and go just as my neighbor does looking out of the window;
- Noise monitoring devices to monitor acceptable decibel level. We can get alert on our phone when the noise exceeds certain level that we set;
- The homeowners/managers have to reside within 30 mins to 1 hour of the STR and must arrive within such time to mitigate any complain. Again, the problem for Buena Park STRs came from 1 unregulated house with its owner actively advertised to rent out the place for events which will be prohibited or limited by the ordinance. This house is on Mango Way which was sold. This is also the reason why Ms Nancy Castaneda (the complainant) is no longer speaking at any Council meeting lately as it was no longer a problem to her.

There are some concerns on wholehome STRs' effect on the BP housing stock. I can address that with the right limitation, wholehome STRs have virtually no impact on the Buena Park housing stock. Before the May 14, 2019 Moratorium #1662, the total of Buena Park STRs was around 77 out of 25,000 available housing units. Single family resident counts were about 12,500 out of the 25,000. A limit can be placed on wholehome STR such as:

- Only up to 1% (approximately 125 in total) of the City's available single family residents can be used for Wholehome STRs. With the TOT figure per unit mentioned above, our City will bring in \$1,200,000 annually ( $\$9,360 \times 125$ ) just on Wholehome rental. This revenue can be used to fund many programs in the City and I believe it's a disservice to the City and the residents if it's not an option to consider;
- Wholehome STR density requirement (300 feet apart) still applies across Sharehomes and Wholehomes. No one can come in and buy a row of home for STR. I can share that none of our Buena Park STR Coalition members is able to buy more than what we have right now;
- Only individuals can register for Wholehome STRs (no Corporations) to avoid Corporations coming in buying up the housing stock for STRs. This is also to the benefit of all legitimate STR owners in Buena Park;
- Limit the number of STRs each individual can register

I hope the above facts will assist you in your consideration of including wholehome Short Term Rentals in the City of Buena Park. We have tried renting out long term and it didn't work out. First, it didn't pay enough. Second, we spent thousands of dollars and months to evict a bad tenant. With a Short Term rental, even if it's a problem, it's a short term problem for us and for the neighbors."

**Pearl Nguyen**, 9160 Via Balboa Circle, Buena Park, CA 90620. Ms. Nguyen's concerns/comments/questions regarding the draft ordinance are as follows, as quoted verbatim from Ms. Nguyen's e-mail and notes which she read from during her public comments:

"I am a living example of how giving notice to neighbors break up the peacefulness of the community. The reason why you have ongoing complainers against my short-term rental is because in my efforts to be a good neighbor, I was the one who informed the previous owners of my home, Juan and Pam, that I am going to be doing a short-term rental and should there be any issues from my guests, please contact me right away, and I gave them my phone number. However, rather than being a good neighbor to contact me immediately should they observe any issues, they went to City's website and grossly exaggerated the complaints, while gossiping with the neighbors that my operations are "nuisances" in order to shut down my short-term rental. Why?

Background: After Juan and Pam sold the property to my husband and me, Juan and Pam became long-term renters of the property immediately adjacent to my property, 9170 Via Balboa Cir., owned by former City inspector Donald Godfrey. Juan and Pam often hosted multiple parties in a year past 10pm, but because of their long-term relationship with neighbors in this cul-de-sac, no one complained. Since my family members are private people who do not like to get into people's business, we do not complain, and since we are too busy homeschooling, rearing our children, and attending church meetings, we do not have much time to socialize with our neighbors; we just live with the noise, though my children, 6 and 7 years old, are usually in bed despite my neighbors' ongoing parties. Since we moved in, Pam has commented, "That's a great idea, but not in this community. I wished we had thought of that." I did not understand why she said that until Code Enforcement officers kept showing up at my door. I never saw what the actual written complaints were whenever Mr. Guzman or Mr. Camacho knocked on my door, continually interrupting my homeschooling schedule and my rest throughout my pregnancy; all I knew was that there were complaints about noise, parking, and trash, which Fred Guzman and Mario Camacho, Code Enforcement officers, were not able to observe no matter how many times they visited my property. The only thing they were able to observe were one or two cars with out-of-state license plates parked on my property. My family and I were completely oblivious to how grossly exaggerated the complaints were against my short-term rental by residents such as Ken Williams and Dennis Heroux until I saw the written documents at today's study session.

The neighbors whose bedroom window is on the walkway of the short-term rental's entrance are Juan and Pam. Do you know what kind of residents/renters they were? They have had multiple garage sales, and I am not sure if they even ask permits from the City. I have heard construction noises in the garage of the property they rent from. My guests told me they have observed people living in the garage. I have observed trash left on the front lawn. It is common for Juan's van or his family's car to block the

public sidewalk. Do I make a complaint against these people? No. Why? As I've told all my adjacent neighbors, I want to be a good neighbor, I am very proactive in taking care of any issues brought to my attention, and I do not want to get anyone into trouble. During the open house on 9170 Via Balboa Cir., I've noticed a toilet, a sink, and most recently an oven (?) installed in the garage (most likely by Juan and Pam); it is questionable whether or not the patio has permits, and I feel sorry for the new owners who have to deal with those issues now. The neighbors are probably more aware of these issues than I am, but do any of them complain? Probably not because of their long-term relationship with Juan, Pam, and Donald Godfrey.

FACT 1: Mr. Dennis Heroux, former city employee, has consistently come to every meeting about short-term rental to complain about my property, but the fact is how does he know what actually goes on in my property if his property is not in the line of vision of my property (His property is 9201 Via Balboa Cir.; please Google the map and see for yourself how practically is he able to witness or participate in the daily operations of 9160 Via Balboa Cir.? Or even better, please drive by the neighborhood and see for yourself our daily operation). The only "fact" he has received are stories from Juan and Pam with "guests smoking cigarettes and marijuana". I have very young children who I homeschool on a daily basis, and I have a naturopathic medical background. Really, do you think I will put my kids' health in danger, if I am aware of it? How can my family live in a trashy condition, as complained by Juan in his first complaint? Mr. Heroux has never entered my property to see if there is a security gate from the pool area to keep the children safe, yet he mentioned "danger for children [because] of the pool"? My kitchen, my husband's workspace, and living room, which I use to homeschool my children, overlooks the pool, and as extra pre-caution, we have installed security cameras at the pool area so we can observe what is going on with the children, in addition to requiring adult supervision at all times to all kids, especially in the pool area. Juan and Pam know this, and of course--they leave out this detail in their stories to Mr. Heroux and Mr. Williams. So as retaliation, should I now go ahead and make complaints about how Mr. Heroux's huge RV has not yet been moved in the past year and it is questionable whether or not it is in operation, and if his house is on fire, a fire truck will not be able to get in? Should I point out how his truck often blocks the public sidewalk in the late evening, and a child riding a bicycle can easily injure himself/herself by accidentally bumping into his truck that blocks the public sidewalk? Mr. Heroux has personally admitted to me that he and Donald Godfrey were the ones involved in the building of all the sheds in this cul-de-sac, which Code Enforcement officers cited me on "electrical" permit issues, though Juan and Pam signed in their disclosures that everything on this property is "permitted" because Donald Godfrey lived next-door and was aware of all repairs/remodeling/construction on the property prior to our ownership.

FACT 2: about Mr. Ken Williams: As retaliation, should I complain to the City whenever he parks on his lawn? Should I complain to the City how his livable structures are more than 40% of the lot coverage?

If I do not interact with my short-term rental visitors, how do I know my visitors are from Korea, from Japan, Puerto Rico, etc. Should I need to contact my guests to ask them to flood e-mails of City staff and Council members of how responsibly interactive we are with our renters and how proactive we are in enforcing our house rules i.e. no smoking, no marijuana, no alcohol on premise? Or that kids using the pool should always be under adult supervision, and that the pool security gate is self-closing because we

retained a code specialist to make sure everything is safe on our property? Should I have my kids write letters to the City of how much they enjoy playing with my renters' children on the trampoline, swimming in the pool with adult supervision, riding their bikes in the back yard, and enjoying the swings and slides of our playground, not just merely "doing nothing BUT converting it into a Short-Term Rental"? Should my guests need to write to the City how their kids enjoy sharing our kids' toys, crafts, and books because we homeschool our kids? Or how we told them about Knott's Berry Farm, though they came to visit Disneyland?

Fact 3: I do not own or rent out "12 properties" as Mr. Williams stated in his e-mail. I never said "the State of California has ruled..." What kind of "suppliers" is he referring to? Does he mean my pool servicer? My gardener? that I hired to upkeep my property to keep this cul-de-sac neighborhood nice and pretty? I don't have a "merchandise" or a "lawnmower business". My driveway can fit 3 big cars and two small cars, besides one car on the street curb directly in front of my home; this makes 6 parking spots, so I don't need to use the garage parking spaces. Anyway, with 3 homeschooled children, our garage is being used for storage of books, toys, and other stuff, like any typical homeowner (it seems that every neighbor in this cul-de-sac parks on the driveway and use the garage for storage). It is no doubt that the proposed ridiculous requirements i.e. garage cannot be used for storage, no side entries, "exterior lighting adequately shielded from adjacent properties to minimize light pollution" most probably come from my neighbors to shut down my operations, simply because they are biased against short-term rentals... Or perhaps because I am Vietnamese? As long as my renters do not park on my neighbors' parking spot, then what exactly are the "issues" Mr. Williams is referring to? If short-term rentals are really great problems, Anaheim, Corona, Pasadena, Long Beach, Placentia, and soon Huntington Beach would not have legalized STRs; that is a fact.

FACT 4: The rented bedrooms are parts of our home. If the noises are so loud, we would have heard of them and not been able to sleep. However, the fact is that my entire family was awakened at 1:00 a.m. by Juan contacting the police, accusing our home of "party" noises, simply because my renters were talking in their bedrooms with their windows open. The police, not finding any excessive noise violation, left, and we told our renters to close their bedroom windows.

FACT 5: I've requested administrative hearings, and the results were never e-mailed to my attorney, despite his repeated requests. We were not given the opportunity to appeal in front of City Council.

This is the deleterious effect of giving notices to neighbors, and I sincerely hope that no other short-term rental owners will have to experience the nightmare of harassments and discrimination our family has lived through. I also sincerely ask that City staff think carefully before adding unreasonable items too invasive of property rights and equal protection by hearing comments from the complainers. Also, rather than quickly jumping to conclusions or siding with the complainers, better efforts should be made to verify the veracity of the complaints."

Commissioner McGuire asked if Mr. Ken Williams was present and available to speak at this workshop.



There being no other speakers, Mr. Rosen asked Planning Commission's discretion as to how to address all comments and questions raised at this workshop.

Chair Barstow and Commissioners Capelle and Diep recommended that staff post on the City website all comments/concerns/questions raised at this workshop, including responses from staff.

Commissioner McGuire asked staff to submit at the next Planning Commission meeting a Code Enforcement statistical report on short-term rentals.

Mr. Rosen said staff will also make a list of all comments made at this meeting, with the corresponding responses, to be presented to Planning Commission.

**ADJOURNED:**

At 10:00 p.m., Chair Barstow adjourned to the Planning Commission Meeting at 7:00 p.m. on September 11, 2019, in the City Council Chamber.

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Larry Barstow  
Chair

ATTEST:

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Joel W. Rosen, AICP  
Secretary

**CASE SUMMARY:**

<b>Case Number:</b>	<b>Conditional Use Permit CU-716 RVK</b>
Application Request:	Initiate modification or revocation of Conditional Use Permit for a hotel
Staff Recommendation:	Approve Resolution to initiate modification or revocation
CEQA Compliance:	Categorical Exemption 15301 (Existing Facilities)
Presenter:	Greg Palmer, City Prosecutor

**MEETING DATE:** September 11, 2019

**AGENDA ITEM NUMBER:** 2

**PROPONENT:** City of Buena Park  
6650 Beach Boulevard  
Buena Park, CA 90622

**REQUEST:** To initiate modification or revocation of Conditional Use Permit No. CU-716

**PROPERTY OWNER:** Golden Hotel, LLC / Golden Capital Venture, LLC  
DBA: Radisson Suites  
c/o Hieu Minh Bui  
9357 Andalusia Avenue  
Fountain Valley, CA 92708

**PROPERTY LOCATION / APN:** 7762 Beach Boulevard / 136-231-37

**LAND USE CHARACTERISTICS:**

The subject property is located on the east side of Beach Boulevard, and maintains a total land area of approximately 3.55 acres. It carries a General Plan designation of TE (Tourist Entertainment), a Zoning classification of ECSP (Entertainment Corridor Specific Plan), and is currently developed as a Radisson Suites Hotel.

**RECOMMENDATION:**

Staff recommends that pursuant to Buena Park Municipal Code Section 19.132.030.B the Planning Commission adopt the proposed resolution to initiate modification or revocation of Conditional Use Permit No. CU-716 to operate a hotel at 7762 Beach Boulevard within the ECSP (Entertainment Corridor Specific Plan) zone and schedule a public hearing for October 23, 2019.

## **DISCUSSION:**

Within the ECSP (Entertainment Corridor Specific Plan), hotels are eligible for consideration under the Conditional Use Permit (CUP) process in compliance with specific findings and subject to operating conditions. Revocation of a Conditional Use Permit may be initiated by the City Council or Planning Commission. Revocation of the right to continue operation of the business will be considered based upon the allowing criteria, in relation to whether the use is being conducted:

- (i) In a manner detrimental to the public health, safety, and welfare; and
- (ii) In a manner not in compliance with conditions of approval; and
- (iii) In violation of City Codes, laws, ordinances, and zoning requirements applicable to the granting of conditional use permits.

The purpose of this meeting is for the Planning Commission to determine if there is sufficient preliminary evidence to initiate the CUP modification or revocation process and schedule a public hearing. In the last year, the city has received numerous complaints concerning the condition of the Radisson Hotel located at 7762 Beach Boulevard, Buena Park, California, operated by Golden Hotel LLC, Golden Capital Venture, LLC and Hieu Minh Bui.

Inspections were conducted on April 13, 2019, May 24, 2019 and June 27, 2019. With very little variance, the conditions of the hotel have not materially changed throughout the pendency of this matter.

Aggravating the matter, the Buena Park City Prosecutor's Office has recently filed a 30 count criminal misdemeanor complaint against Hieu Minh Bui and Golden Capital Venture, LLC related to the conditions found at the hotel during the inspections and the architect hired by the hotel to address some of the issues notified the hotel and Mr. Bui that it had very serious concerns about the hotel management continuously deviating from the architectural drawings provided. The architectural firm also noted deferred maintenance and negligent building management which to them was very alarming and could likely endanger hotel guest's health and safety. Ultimately, when the hotel management failed to adequately address these concerns, the architectural firm withdrew from assisting the hotel any longer.

As a result of the report from the architectural firm and the City's own inspections, the numerous problems can be described as:

1. Construction work and maintenance work completed without a building permit.
2. Construction completed which exceeded the current permits obtained (specifically demolishing the meeting rooms).
3. ADA safety concerns such as uneven guestroom floors or corridors, broken and/or inoperative elevators and a lack of ADA compliant restrooms.
4. Mechanical equipment, boiler rooms and ducts in a state of disrepair.
5. Corroded, cracked and/or leaking pipes.
6. Water was seen pooling on the mechanical roof deck resulting in 6" to 8" of standing water creating a roof failure danger.
7. Dead rats on the roof deck.

8. Mold on the floors and walls in and around the leaking ice machines.
9. Mold that has not been properly mitigated in the meeting room bathrooms.
10. Fire damage, which has not been repaired, in the ground floor northwest restroom.
11. The open-air egress stairs are not up to code requirements; they lack intermittent balusters to prevent a child from falling through them.
12. Many of the repairs done by the hotel owners were not done to appropriate specifications. The work was not done in a workman-like manner and the materials used for the repairs were Home Depot/Residential grade products rather than hospitality grade products.
13. The thresholds to the guestrooms are not ADA compliant.
14. The fire sprinklers in the laundry room are not up to code requirements.
15. The meeting rooms were partially demolished without a demolition permit leaving wires exposed, light fixtures hanging, and a large number of items piled in the room.
16. There are many broken and open electrical appliances, leaving exposed and energized wiring, in the common areas of the hotel, including the front of the hotel, the public lobby, the exterior walkways and pool area.
17. The canvas awnings are worn, have holes in them and need to be replaced.
18. There is a large amount of dead vegetation and dead palm fronds throughout the hotel.
19. The drain plates are broken or damaged throughout the hotel.
20. The wrought iron fencing has deteriorated and has jagged edges.
21. The building guard rails are broken or damaged throughout.
22. Walkway tiles are broken or damaged.
23. There is missing or cracked concrete stone flooring.
24. The tile that wraps around some of the wood posts are damaged.
25. The wood pedestrian bridge/walkway leading to the conference room is suffering from severe termite damage and dry rot. It is so bad the hotel has closed the walkway from any and all pedestrian traffic. It needs to be repaired or replaced; not just closed.
26. There is dry rot on the wood trim areas.
27. There is obvious water leak damage in the ceiling of the fire control room.
28. Fire damage to the wooden support beams near Room 154 needs to be repaired.
29. There is exposed electrical wiring in the fire damaged restroom.
30. The fire sprinkler in Room 105 fails to extend past the ceiling surface.
31. The swimming pool pump room has many issues: (1) improper storage of liquid acid on the top shelves; (2) a damaged ventilator tube; (3) peeling paint; (4) deteriorated wires; and (5) the roof over the swimming pool heater enclosure was installed without a building permit.
32. There is an excessive amount of storage in the cooler room.
33. The fire sprinkler room has an excessive amount of storage which blocks access to the electrical panel; holes in the ceiling and walls need repair; and missing or broken electrical covers need repair or replacement.
34. The elevator control room has too much excessive storage, damaged walls and uses a portable air conditioner rather than a permanent air-cooling system.
35. There is a leaky plumbing fixture in the boiler room.
36. The commercial laundry room lacks paint, has holes in the ceiling and has ripped A/C insulation.
37. There is an excessive amount of piled storage of mattresses and other items in the storage rooms which restrict or eliminate the effectiveness of the fire sprinkler heads.
38. Rooms 143 and 147 need a properly installed and working smoke detector.
39. Room 143 has fire sprinkler heads which do not protrude from the surface of the ceiling.
40. The walls of the café need repair because of peeling paint, holes in the ceiling and cockroach and rodent infestation.
41. There are several areas within the hotel where extension cords are being used in place of permanent wiring.

42. Several of the rooms were closed for use due to a hot water pipe leak which was left in a condition where hot water was continuously running into a drainpipe within an excavation in the concrete floor. Repair attempts were first made without a plumbing permit.
43. The hotel has failed to maintain the fire and life safety systems in an operable condition.
44. Piping not associated with the fire sprinkler systems is being supported by fire sprinkler piping in the chiller room.
45. There are unprotected penetrations in fire rated walls which has compromised the firewall and fire barriers between occupancies.

Operations at the Radisson Hotel has demonstrated a continued pattern of public safety and Municipal Code violations, building and fire code violations, property maintenance violations and a general lack of proper and effective maintenance, creating an environment detrimental to the public health, safety, and welfare; the safety of the guests at the hotel, and constituting a public nuisance. The operation of the business is in violation of the approved CUP conditions of approval. Therefore, Staff finds that there is a need to schedule a CUP modification/revocation public hearing date for the Radisson Hotel.

Staff recommends that the Planning Commission schedule a CUP revocation public hearing for the Radisson Hotel for October 23, 2019. At the public hearing, Staff will present detailed documentation to show cause for modification/revocation of the CUP based on operation of the business in a manner detrimental to the public health, safety, and welfare; use not in compliance with conditions of approval; and in violation of the requirements applicable to the granting of conditional use permits under the Buena Park Municipal Code. At the public hearing, the property owner will have an opportunity to respond and provide testimony in their defense. The decision of the Planning Commission at the future noticed public hearing to revoke or not revoke the CUP will be final unless appealed to the City Council.

## **ENVIRONMENTAL ASSESSMENT**

The project is Class 1, Section 15301 (Existing Facilities), categorically exempt from CEQA.

## **NOTIFICATION**

Notice of this meeting was sent to the property owner of record via certified mail on August 22, 2019 in compliance with Section 19.132.030.C of the Buena Park Municipal Code.

Prepared by: Greg Palmer, City Prosecutor

Approved by: Joel W. Rosen, AICP, Community Development Director

Presented by: Greg Palmer, City Prosecutor

Attachment: Proposed Resolution

SRCU-716 RVK

RESOLUTION NO.  
CONDITIONAL USE PERMIT REVOCATION NO. CU-716RVK

A RESOLUTION OF THE PLANNING COMMISSION OF BUENA PARK TO INITIATE THE MODIFICATION OR REVOCATION OF CONDITIONAL USE PERMIT NO. CU-716 TO OPERATE AND MAINTAIN A HOTEL AND SCHEDULE A PUBLIC HEARING FOR FINAL ACTION FOR A PROPERTY LOCATED AT 7762 BEACH BOULEVARD WITHIN THE ECSP (ENTERTAINMENT CORRIDOR SPECIFIC PLAN) ZONE

The Planning Commission of the City of Buena Park hereby resolves as follows:

Pursuant to Buena Park Municipal Code Section 19.132.030.B. the Planning Commission hereby declares its intent and orders the initiation of modification or revocation of Conditional Use Permit No. CU-716 to operate and maintain hotel and schedule a public hearing for final action for a property located at 7762 Beach Boulevard within the ECSP (Entertainment Corridor Specific Plan) zone and schedule a public hearing for final action on October 23, 2019.

The Planning Commission Secretary shall certify to the adoption of this Resolution

PASSED AND ADOPTED this 11<sup>th</sup> day of September 2019 by the following called vote:

AYES:	0	COMMISSIONER:
NOES:	0	COMMISSIONER:
ABSENT:	0	COMMISSIONER:
ABSTAINED:	0	COMMISSIONER:

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Larry Barstow  
Chair

ATTEST:

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Joel W. Rosen, AICP  
Secretary