



# AGENDA

## Planning Commission

**MEETING DATE AND TIME:**

October 9, 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 October 24, 2019.*

**CALL TO ORDER / FLAG SALUTE:**

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

1. **APPROVAL OF MINUTES:** August 28, 2019 Planning Commission Meeting and Study Session/Workshop Minutes  
September 11, 2019 Meeting  
September 25, 2019 Adjourned Meeting

RECOMMENDED ACTION: Approve

**PUBLIC HEARING:**

**OLD 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, October 23, 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, 2019**

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 Barstow 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 is 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 is required to have garages, for example a 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.

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

She commented that she has 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 very 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 that the character of their community

stay intact; she understands that the property owner has rights; 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, being respectful of the rights of the property owner and protective of the rights of the community.

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.

Chair Barstow and Dr. Meshram announced that speakers will be generally given five minutes to speak except for one who has requested to speak on behalf of Buena Park Short-term Coalition members.

**Cassandra Elliott**, Buena Park Coalition, 7812 La Habra, said she lives with her mother Kathleen; she is here to speak also on behalf of the Buena Park Short-Term Rental 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 stated that she will start with questions raised in Dr. Meshram's presentation, as follows:

1. Why is there a six-month residency required of the property owner prior to starting a short term rental permitting process?
2. Why did the term change from short term rental to vacation rental? It seems the terminology limits the use of the place to vacationers and not guests who are staying for business purposes or because of a sick family member who resides nearby.

Ms. Elliott discussed her/STR Coalition members' comments and questions by sections:

- Section 3B2 – six-month ownership requirement. Her question was earlier raised, see number 1 of 2 questions;
- Section 3B7– Does this requirement refer to only to direct rentals and not to those who are renting through platforms such as the website? When renting through the platform, the renter has to agree to the conditions listed such as no parties, quiet times, etc.;
- Section 3B9 – What does “timely” mean? In other sections of the ordinance, there is a limit of six weeks. Does this timeframe carry through the entire ordinance? In other sections of the ordinance, there is a specified timeframe of ten days. Timely is too vague of a term;

- Section 3B15 - Can we use the rental agreement provided by the platform or do we have to have the guests sign individual rental agreements? When guests book through the platform, it is assumed that they agreed with the terms of the rental agreement; the host wouldn't have anything in writing, just the assumption that the guests agreed to rent under the terms and conditions stated in the agreement provided by the platform.
- Section 4 - The six-week timeline of communication - does this timeline apply throughout the entire ordinance?
- Section 4B - The requirement to notify neighbors within a 300 ft. radius is concerning because it would pit neighbors against neighbors; if this public notification is not required for long term rentals and other home-based businesses, why should it be a requirement for short term rental only? The cities of Newport and Pasadena send out these notices to abutting neighbors only; neighbors should not be able to veto a neighbor's opportunity to run a legitimate business based on what could happen or what ifs as, if stepping off a curb, can cause one to fall down, then don't step off a curb.
- Section 4C – First C refers to a final decision by **Planning Commission** – please make sure this is subject to an appeals process as stated in Section 11.
- Section 4C – Section C refers to potential adverse impacts. What are these potential adverse impacts? Those who wrote this ordinance need to include a reference to the Zoning Code, stating what the specific adverse impacts are.
- Section 4E - This refers to the 300 ft. radius requirement for noticing. As earlier stated, this is allowing neighbors to pit against neighbors. Neighbors should have open communication; however, this is not common practice anymore. As an example, Ms. Elliott said that she knows her neighbor on the left side fairly well, but not the neighbor to her right. To have neighbors within 300 ft. radius police a short term rental home and obtain a complete copy of the short term rental permit is a huge invasion of privacy and a violation of the Fourteenth Amendment of the Constitution which requires equal protection for everyone; if this is not required of long term rental homeowners and owner of home-based businesses, it should not be required of short term rental owners. For instance, a person who runs a home-based accounting business will have customers come in and out of the house yet the owner of the business is not required to do a notification to neighbors within 300 ft. radius; this is a huge issue for short term rental owners.
- Although short-term rental owners have no objection to the Code Enforcement phone number going out, there is a concern about noticing neighbors to keep an eye on the short-term rental properties for possible violations. Short-term rental owners feel that this is a violation of their rights.
- From comments raised in a past meeting, a City Council member in Anaheim stated that there is a short-term rental property in his neighborhood and the host received and took care of the complaints, there was no need to involve the city.

- Unlike long term rental owners, short term rental owners monitor their properties of an ongoing basis because of the turnovers.
- One of the Short Term Rental coalition members talked about self-certification, an example being the cities of Pasadena and Palm Springs where short term rental owners can certify that they went to their abutting neighbors to inform them of the short-term rental business, with the owner's contact information, and they had no issue.
- Short-Term rental owners are concerned with the public obtaining a copy of their application, with their personal information including their Social Security numbers, with the City being responsible for redacting those information.
- Section 5B – The reference to hosted accommodations during quiet hours concerns short-term rental owners because it limits the renters' options on what they can do. Another section says the homeowner has to be on site within an hour of a call about a problem, which should cover the need for the homeowner to be there during quiet hours.
- Section 5C – A permit being eligible for one year is understandable for the time being as the short-term rental business is something new; however, short term rental owners are hoping that at some point, if the host is consistently good, the permit can get extended without having to be renewed every single year. Short term rental owners usually book six months in advance and if they cannot book past December because the permit expires in December it will pose a problem.
- Section 5D - How often do short term rental owners have to remit the TOT? The proposed ordinance says every single month. Feasibly, the remittance should be in line with the IRS guidelines – quarterly, and if you hit a certain amount, you have to report monthly. Ms. Elliott said she is not sure how often platform sites would have to remit to the City - monthly or quarterly? She said the monthly remittance is over the top for short-term rental businesses.
- Section 5E – The statement that the City is going to inspect the premises has to be more specific, indicating inspection of rental unit/s only. If the short term rental owner has a clogged sink that she will take care of, it is her private property and should not be subject to inspection.
- Section 5E8 – Clarification is needed on the requirements for barbecues/open fires such as a required lid on barbecue grill, fire in fire pits, etc.
- Section 5E13 – The required survival kits in rental units – short term rental owners want to know if hotels and long term landlords are required to have survival kits in their units; this goes back to equality - if hotels and long term landlords are not required to have survival kits, why are these required of short term rental owners? If this gets passed, most likely, something in the kit will be missing – a battery, a flashlight, etc. Short term rental owners feel this requirement is somewhat weird and was just thrown in there; that they are unreasonably burdened, that this requirement is overreaching.

- Section 5E14 – The reference to bathtubs probably refers to hot tubs. (Dr. Meshram confirmed that it should have been hot tubs.)
- Section F1 - Refers to the signed agreement addressed earlier; when renters rent from a platform, conditions are provided and by renting, they agree to the conditions. Does City need short term rental owners to provide a copy of that agreement?
- Section 5F2 – The limit of eight renters concerns short-term rental owners because a four or five-bedroom house can potentially have more than eight total; the required limit could not have been because of parking because seven or eight people can fit in one van. The limit discriminates against big families.
- Section 6 – Requires separate receptacles or trash cans for rental units; this is not necessary in cases where there are one or two renters; why require a separate receptacle if it is no need for it?
- Section 7 – The required entrance or exit from the front door infringes on property rights of short-tem rental owners; the reason for the side gates is that property owners do not want the renters to go through their front doors to enter the house just because of an ordinance; this is arbitrary; if this requirement came out of a complaint raised by a neighbor who has moved out of the house and does not live there anymore, then this requirement is arbitrary.
- There was a requirement about a swimming pool without a gate in one home – that homeowner installed a gate that automatically closes; the owner took steps to address the issue. Should this be on the proposed ordinance or handled on a case by case basis?
- The maximum of four people gathering outdoors during quiet times – this is not fair if not imposed on all households; Ms. Elliott stated that she does not allow smoking but to disallow smoking in one’s backyard is a violation of property rights.
- Ms. Elliott said she feels that certain requirements are complaint driven and unrealistic such as the requirement for the homeowner to be present during quiet hours; if a movie ends at 11:00 p.m., if there is an emergency that requires the homeowner to go to the hospital during those hours, etc., this requirement would pose problems.
- Section 5F11 – What does “adequately shielded” mean?
- Section 5F2 – Why does a short term rental owner need approval to advertise on another platform, thereby requesting six weeks to wait for approval on an additional platform? Can the short term rental owner just give a letter to City when starting another advertising on a platform and the City can do due diligence? Short term rental owners should not need approval for where to place their ads or businesses.

Mr. Rosen stated that it is unlikely for staff to respond to all comments and inquiries at this meeting. He encouraged speakers to also submit written comments and questions to staff.

Dr. Meshram said that because the comments and questions are section by section/point by point, all comments and responses will be posted on the City website.

Ms. Elliott said she was almost done; she felt their voices have not been heard enough by City Council and staff.

Commissioners Capelle and Diep said the speakers should continue to raise their questions and comments at this meeting.

Commissioner Diep said this study session is also a workshop where the Planning Commissioners need to hear all the comments in details from the public. She said she does not expect all comments and questions to be addressed tonight but hopes to see a redline version of the proposed ordinance with comments/questions and staff's responses.

Chair Barstow said he felt that the comments/questions raised are valid.

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.

Ms. Elliott discussed comments/questions by section:

Section 5F – Accessory Dwelling Units – Short-term rental units should conform to the current State law.

Section 7 – Why the requirement for a business license? With the required permit, a business license becomes redundant.

Section 7C – Clarification on this section needed.

Section 8C – If an applicant expires, the short-term rental should be able to renew. If a short term rental owner had an emergency and chose not to renew the permit because of an extenuating circumstance that gets resolved in six months, the owner should be able to go ahead and renew because there was no denial due to a violation.

Section 9 – There is a concern about the word discretion because it is subjective; there should be a legitimate reason for not renewing, not just discretion.

Section 10 – If a first violation is easily addressed, the next one should not be a second violation.

Section D - This says that three violations of the same Code section within 12 months will result in auto revocation of the permit; Make sure that the violations have been duly verified; some may have been corrected – if there is trash in the front yard, maybe the wind blew it in that direction.

Section 11A – “Within ten business days must be received by the director...: - Make sure the short term rental property owner has received the correspondence within ten days.

Ms. Elliott said there were other questions that they had during Dr. Meshram's presentation such as the fee simple title (?), one permit per individual per address (she and her mom live in one house), the side entrance should not be used during quiet hours or not at all?

Ms. Elliott referred to swimming pools requiring a gate, making it not accessible to rental guests, are there other related codes on swimming pools?

Ms. Elliott said homeowners insurance is different from renters insurance; platforms provide additional insurance, with charges to customers/renters and million dollar policy for every person hosting. Homeowner policies might provide riders; there were some comments made last-minute about requirements being very restricting, short-term rentals are in this for business, they are paying mortgage, their parents' mortgage, the cost of putting their parents in retirement homes, some cannot afford to buy a house that costs between \$500,000 to \$700,000; floor plan submission is weird - who would have access to those? The City's building permits have that information. What is the purpose of requiring floor plans if same is not required of long term rental owners?

Ms. Elliott stated that garages are usually used for storage; if two cars are parked in the garage, and two cars are parked in front of those cars, it will be hard for the cars in the garage to move; a compromise would be if the parking space in front of the house is counted as additional parking space. Ms. Elliott stated that her mom uses the driveway to park while she parks in front of the house. She said it is not reasonable to park in the garage; most garages are used for storage, as workshop or hobby shop.

**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 can be included in the notification list, regarding short-term rentals 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** – Mr. Nguyen said he represents wholehome rental owners, with Mr. Wilson Navarro, and he is trying to protect what he has earned in the last 30 years in the U.S. He said at least two City Council members expressed that they favor wholehome rental; it is the option that should be looked into for consideration; he has operated wholehome rental and hosted about 130 families with absolutely zero incidents; invested the rest of his money to update that property that he bought after his neighbor left it; his neighbors offered to take the trash in and out; he leaves his home at 6:30 a.m., returns at 7:00 p.m.; a little benefit about whole home rental is it provides a good alternative to expensive hotel stays especially for large families who are on vacation and want to stay together; wholehome rentals provide complete privacy and security; many parents and grandparents do not want strangers around the children; wholehome rentals bring in large amounts of TOT - about three or four times more than short-term rentals; \$6500 monthly, gross revenue totaling \$80,000 to \$94,000 a year for the City; with only 1% of housing stock, about 125 total whole house rentals bring in \$1.2 m in TOT for City; monitoring is easier with wholehome rentals – a lot of valuable devices available - camera, noise monitoring device, etc.; his neighbors have his number, when they call, he immediately comes in 15 minutes.

**Pearl Nguyen**, 9160 Via Balboa Circle, Buena Park, CA 90620, said this is the first time that that City will hear from the person who owns the short-term rental at Via Balboa; the City filed an injunction against her; she purchased her home last year, not to invest in short term rental as Mr. Heroux said but to take care of a parent – her mother has dementia, her father works, and she needed to take care of her mother so she had to live close to them; how can

she afford to maintain a house – she just graduated from college, with a young family, medical bills to pay, medical school loans to pay? Who wants to share a home with other people? She wants her privacy but in order to make ends meet, and help support her family, she has to have the short-term rental; it is common in the Vietnamese culture to take care of parents in their old age; she was pregnant when she purchased her home; spoke with a broker/realtor before purchasing it, was told by the broker/realtor that there is no law prohibiting short-term rentals in the City; her home is her first American dream home for her children, with a beautiful backyard; within the first two weeks, she was bombarded with Code Enforcement inspections, one after another; she tried to comply, invited the inspectors in and was told that the structure does not have permits for electrical; when she purchased the home, the former owner told her everything was permitted; she hired a licensed electrician who went to the City to apply for permits but was told by staff he was not allowed to do so, she does not know why; she talked to Dennis Heroux who built a shed in the neighborhood; her property is in a cul de sac adjacent to Cypress College, Holder Street is a big street, she has a security camera that recorded cars frequently coming in making U-turns from Cypress College; Mr. Heroux talked about her comment about State Law, all she said was when the City filed an injunction to stop her short-term rental business, the Court issued a ruling on June 25 that it is a permitted use. She tried to explain that to Mr. Heroux; if the people who complained about her short-term rental were previous owners of her home, then she did not complain about the garage with an oven, toilet, and sink; she is appalled at what Ken Walker wrote; there have been instances in the cul de sac when she observed him parked on the lawn; it is not her nature to complain, she observed people parking in front of a fire hydrant; one day as she was walking out of the cul de sac, a lady asked her why she called the police on her; she said she did not; she is a living testimony of neighbors going against neighbors; they complained that her cleaners come three to four times a week – she has children, she cares for her children's safety and sleep schedule, cleaners coming in three to four times a week is not true; if guests have delayed flights, she does not want them to come in through her front door and disturb her family's sleep; it is unsanitary for her gardeners to use the front door to bring in trash containers and other gardening equipment; she feels that individuals who complained are simply against her running a short-term rental.

Commissioner McGuire asked if Mr. Ken Williams was present and available to speak at this workshop. Mr. Williams was not present.

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

DRAFT

CITY OF BUENA PARK  
MINUTES OF CITY PLANNING COMMISSION  
September 11, 2019

The regular meeting of the Planning Commission of the City of Buena Park convened at 7:00 p.m. on September 11, 2019, in the City Council Chamber, 6650 Beach Boulevard, Buena Park, California with Chair Barstow presiding.

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

ABSENT: COMMISSIONERS: Chung and Schoales

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

**1. APPROVAL OF MINUTES**

August 28, 2019 Meeting

August 28, 2019 Study Session/Workshop

RECOMMENDED ACTION: Approve

Mr. Rosen informed the Commission that staff received corrections from the community on the minutes of the last meeting and is therefore requesting continuance of this item to the next Planning Commission meeting.

Chair Barstow advised that the item requires a Minute Action to approve continuance to the Planning Commission meeting of September 25, 2019.

The MOTION CARRIED unanimously.

AYES:	5	COMMISSIONERS:	Capelle, Diep, Desai, McGuire, and Barstow
NOES:	0	COMMISSIONER:	
ABSENT:	2	COMMISSIONERS:	Chung, Schoales
ABSTAIN:	0	COMMISSIONER:	

**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

In reply to Chair Barstow, Ms. Santos stated that staff had received and distributed copies of e-mails from Michael Reiter, representative of the property owners.

Mr. Rosen advised that staff received a late request from Mr. Reiter, attorney representing the property owner, requesting continuance due to a medical emergency.

Chair Barstow advised that the item requires a Minute Action to approve continuance to the Planning Commission meeting of September 25, 2019.

The MOTION CARRIED unanimously.

AYES:	5	COMMISSIONERS:	Capelle, Diep, Desai, McGuire, and Barstow
NOES:	0	COMMISSIONER:	
ABSENT:	2	COMMISSIONERS:	Chung, Schoales
ABSTAINED:	0	COMMISSIONER:	

**ORAL COMMUNICATIONS:**

None

**AGENDA FORECAST:**

Mr. Woods announced the items continued from tonight's meeting will be considered at the next Planning Commission meeting.

**STAFF REPORTS:**

Mr. Rosen updated the Commission on City Council approval of adoption of the Sign Ordinance. He also reported that staff is meeting and working diligently with representatives from the community on the draft short-term rental ordinance, and will present the draft to Planning Commission shortly.

**COMMISSION REPORTS:**

None

**ADJOURNED:**

At 7:08 p.m., Chair Barstow adjourned, in memory of "9/11," to the Planning Commission Meeting at 7:00 p.m. on September 25, 2019, in the City Council Chamber.

\_\_\_\_\_  
Larry Barstow  
Chair

ATTEST:

\_\_\_\_\_  
Joel W. Rosen, AICP  
Secretary

DRAFT

CITY OF BUENA PARK  
MINUTES OF CITY PLANNING COMMISSION  
September 25, 2019

Due to lack of quorum, the regular meeting of the Planning Commission of the City of Buena Park on September 25, 2019, adjourned to the regularly scheduled Planning Commission meeting on Wednesday, October 9, 2019, in the City Council Chamber.

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Larry Barstow  
Chair

ATTEST:

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Joel W. Rosen, AICP  
Secretary

DRAFT

**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:** October 9, 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

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 9<sup>th</sup> day of October 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