



AGENDA

Planning Commission

MEETING DATE AND TIME:

March 24, 2021 - 7:00 p.m.

MEETING LOCATION:

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

SPECIAL NOTICE REGARDING COVID-19

On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of COVID-19. The Governor issued Executive Order N-25-20, which allows Planning Commissioners to attend Planning Commission meetings telephonically. Please be advised that some, or all, of the City of Buena Park Planning Commissioners and staff may attend this meeting telephonically.

This meeting will allow public attendance in person with the following precautions in place to ensure the health and safety of the public:

- Attendees must submit to a verbal health screening and temperature check before entering the Council Chamber.
- Attendees will be required to wear a face covering at all times while in the Council Chamber or City Hall.
- Social distancing of 6 feet is required at all times. Designated seating has been identified for public use.

Members of the public may also submit their comments and questions in writing for Planning Commission consideration, by sending them to the Planning Division at bpplancomments@buenapark.com. Please submit all comments and questions by 5:00 p.m. on Wednesday, March 24, 2021. All comments and questions will be read during the meeting.

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 *April 8, 2021*.

CALL TO ORDER / FLAG SALUTE:

ROLL CALL:

Cangey, Desai, Diep, Eades, Lee, Sheibe, and Schoales

1. APPROVAL OF MINUTES:

February 24, 2021 – PC Meeting

March 10, 2021 – Canceled Meeting

RECOMMENDED ACTION:

Approve

PUBLIC HEARING (2-3):

NEW BUSINESS:

2. SHORT-TERM RENTAL NO. STR-20-0001

A request to approve a Short-Term Rental permit to operate a short-term rental use within the owner's primary residence. The property under application is located within the cul-de-sac of Via Balboa Circle, near the cross streets of Holder Avenue and Via Arroyo Drive. The property maintains a street frontage of 39 feet and a total land area of approximately 9,554 sq. ft. It carries a General Plan designation of Low Density Residential, a Zoning classification of RS-6 (Single Family Residential), and is currently developed with an approximately 1,904 sq. ft. single-family house containing five bedrooms and four bathrooms, an attached two-car garage, and related residential site improvements. The project is Class 31, Section 15331 (Existing Facilities), categorically exempt from CEQA.

PROPERTY OWNER / APPLICANT: Liem Nguyen
Ngoc (Pearl) Nguyen
9160 Via Balboa Circle
Buena Park, CA 90621

RECOMMENDED ACTION: Continuance to April 28, 2021

OLD BUSINESS:

3. REVOCATION OF CONDITIONAL USE PERMIT NO. CU-13-006RVK

Pursuant to Buena Park Municipal Code Section 19.132.030.B, the Planning Commission hereby declares its intent to consider revocation of Conditional Use Permit No. CU-13-006 to operate a motel located at 8530 Beach Boulevard within the CG (Commercial General) zone. This revocation is based upon the operation of the motel in a manner that is (i) detrimental to the public health, safety, or welfare; (ii) not in compliance with all applicable conditions of approval; and, (iii) in violation of the requirements applicable to the granting of conditional use permits under the Buena Park Zoning Code. The project is Class 1, Section 15301 (Existing Facilities), categorically exempt from CEQA.

BUSINESS OWNER: Best Host Inn
8530 Beach Boulevard
Buena Park, CA 90620

RECOMMENDED ACTION: Continuance to a Date Uncertain

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 next Planning Commission meeting on Wednesday, April 14, 2021, at 7:00 p.m. in the City Council Chamber.

CITY OF BUENA PARK
MINUTES OF CITY PLANNING COMMISSION
February 24, 2021

The regular meeting of the Planning Commission of the City of Buena Park convened at 7:00 p.m. on February 24, 2021, in the City Council Chamber, 6650 Beach Boulevard, Buena Park, California, with Chair Schoales presiding.

PRESENT: COMMISSIONERS: Cangey, Desai, Diep, Eades, Lee, Sheibe, and Schoales

David M. Crabtree, AICP, Interim Director of Community Development
Swati Meshram, Ph.D., AICP, LEED AP, Planning Manager
Braulio Moreno, Assistant Planner
John W. Lam Assistant City Attorney
Ruth Santos, Senior Administrative Assistant

CONSENT CALENDAR (1-2)

1. **APPROVAL OF MINUTES** December 9, 2020
Cancelled meetings of December, 23, 2020,
January 13 and 27, and February 10, 2021

Commissioner Diep moved and Commissioner Eades seconded the motion to approve the minutes.

AYES: 7 COMMISSIONERS: Diep, Eades, Cangey, Desai, Lee, Sheibe, and Schoales

NOES: 0 COMMISSIONER:

ABSENT: 0 COMMISSIONER:

2. **EXTENSION OF TIME NO. EXT. 21-1**

A request to extend previous approval of Development Agreement DA17-26734 due to the Covid-19 delay. The request is for a two-story mixed-use development at 6172 Beach Boulevard. The project is Class 32, Section 15332, categorically exempt from CEQA.

APPLICANT: Jasmine Young Jeon
6301 Beach Boulevard, Suite 180
Buena Park, CA 90621

PROPERTY OWNER/PROPONENT: 6100 Beach LLC
6301 Beach Boulevard, Suite 180
Buena Park, CA 90621

RECOMMENDED ACTION: Adopt Minute Action Approving the Extension

Commissioner Diep moved and Commissioner Eades seconded the motion to approve Extension of Approval No. EXT-21-1.

AYES: 7 COMMISSIONERS: Diep, Eades, Cangey, Desai, Lee, Sheibe, and Schoales

NOES: 0 COMMISSIONER:

ABSENT: 0 COMMISSIONER:

ABSTAIN: 0 COMMISSIONER:

===== END OF CONSENT CALENDAR=====

PUBLIC HEARING:

3. EXTENSION OF NON-CONFORMING PRIVILEGE NO. ENP-20-1

A request to expand an existing 2,900 sq. ft. dental office by 1,820 sq. ft. with the request to continue the existing building setback of 12 ft. along Western Avenue where 20 ft. is required for the location of 7490 Orangethorpe Avenue. The project is Class 1 (Existing Facilities), Section 15301, deemed to be exempt from CEQA.

APPLICANT: Seoung Jin An
3055 Wilshire Boulevard, #810
Los Angeles, CA 90010

PROPERTY OWNER: 102 Kenmore LLC & Pasdenal LLC
936 Crenshaw
Los Angeles, CA 90019

RECOMMENDED ACTION: Adopt Resolution Approving the Extension of Non-Conforming Privilege

The staff report was presented by Braulio M. Moreno, Assistant Planner.

Chair Schoales announced that Commission comments/deliberations should be reserved after the Public Hearing is closed. He asked if there were any Commissioner questions or clarifications of staff.

There being no questions/clarifications of staff, Chair Schoales opened the public hearing.

Seoung Jin An, applicant, attended the meeting by phone. He thanked staff and said the proposed project will enhance the site.

Chair Schoales asked if there were any written communication on the item.

Ms. Santos said staff distributed a memo with a corrected A-1.0 floor plan, which shows two bathrooms and the layout for the conference room.

Chair Schoales asked if there was anyone else wishing to speak on the item.

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

Commissioner Eades moved, and Commissioner Cangey seconded, the motion to adopt the Resolution approving Extension of Non-Conforming Privilege No. ENP-20-1 with findings of fact and conditions therein.

RESOLUTION NO. 6209
EXTENSION OF NON-CONFORMING PRIVILEGE NO. ENP-20-1

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BUENA PARK APPROVING A REQUEST FOR EXTENSION OF NON-CONFORMING PRIVILEGE TO EXPAND AN EXISTING 2,900 SQ. FT. DENTAL OFFICE BY 1,820 SQ. FT. WITH THE REQUEST TO CONTINUE THE EXISTING BUILDING SETBACK OF 12 FT. ALONG WESTERN AVE; WHERE 20 FT. IS REQUIRED WITHIN THE CG (COMMERCIAL GENERAL) ZONE LOCATED AT 7490 ORANGETHORPE AVE WITH FINDINGS IN SUPPORT

AYES: 7 COMMISSIONERS: Eades, Cangey, Desai, Diep, Lee, Sheibe, and Schoales

NOES: 0 COMMISSIONER:

ABSENT: 0 COMMISSIONER:

ABSTAINED: 0 COMMISSIONER:

ORAL COMMUNICATIONS:

Dr. Meshram acknowledged the presence of Council Member Elizabeth Swift, who is also the Planning Commission liaison.

Council Member Swift thanked the Planning Commissioners for the very important job that they do for the City. She also shared her memories of the property that was approved at tonight's meeting, and noted how the site has evolved and progressed.

AGENDA FORECAST:

Dr. Meshram informed the Commissioners that there are two items scheduled for the March 24, 2021 Planning Commission meeting, and no items as of this date for the March 10, 2021 meeting. She announced that a joint City Council/Planning Commission Study Session on the Housing Element will be held sometime soon, depending on the availability of City Council Members and Planning Commissioners. She added the Study Session will not be held on a regularly scheduled City meeting.

STAFF REPORTS:

Mr. Crabtree announced that Aaron France was unanimously appointed by City Council as City Manager.

COMMISSION REPORTS:

None

ADJOURNMENT:

At 7:30 p.m., Chair Schoales adjourned to the next Planning Commission meeting on Wednesday, March 10, 2021, in the City Council Chamber

James Schoales
Chair

ATTEST:

Swati Meshram, Ph.D., AICP, LEED AP, AICP
Planning Manager

CITY OF BUENA PARK
MINUTES OF CITY PLANNING COMMISSION
March 10, 2021

The March 10, 2021, Planning Commission meeting was cancelled. The next Planning Commission meeting will be on Wednesday, March 24, 2021, in the City Council Chamber.

James Schoales
Chair


ATTEST:

David M. Crabtree, AICP
Secretary

DRAFT



TO: Chair Schoales and Planning Commissioners

FROM: David M. Crabtree, AICP, Interim Director of Community Development 


DATE: March 16, 2021

SUBJECT: **MARCH 24, 2021, PLANNING COMMISSION MEETING
ITEM NO. 2 - SHORT-TERM RENTAL NO. STR-20-0001
REQUEST FOR CONTINUANCE**

On March 16, 2021, staff received a written request from the applicant seeking rescheduling to the next available Planning Commission meeting in order to more completely prepare their project presentation. Staff has no objection to this request and has advised the applicant the next available meeting is anticipated to be April 28, 2021 and recommends that the Commission continue this item to that date.

DATE: March 16, 2021

TO: Chair Schoales and Planning Commission

FROM: David M. Crabtree, AICP, Interim Director of Community Development 

**SUBJECT: MARCH 24, 2021, PLANNING COMMISSION MEETING
ITEM NO. 3 - REVOCATION OF CONDITIONAL USE PERMIT NO.
CU-13-006 RVK - REQUEST FOR CONTINUANCE**

The Commission may recall, staff was contacted by the hotel ownership at the time of your last hearing on this matter in November 2020, noting their desire to work to have outstanding code enforcement violations as well as operational concerns (e.g. Police calls for service) resolved to the City's satisfaction. In summary, the owners have been working to remove the current hotel operator in order to regain control of the property. A further update from the owner's attorney is attached for the Commission's reference and requests a further continuance of this matter to allow time for resolution.

As provided in their letter, the ownership reports progress toward their goal to resolve outstanding issues, some of which are dependent upon court dates and logistics necessary to allow them to take back possession of the property from the current hotel operator. The owners have additionally offered to enter into a binding agreement with the City for the back-payments owed to Buena Park by the current operator.

Staff has no objection to the requested continuance based on the owners expressed goals to resolve matters together with their commitment to payments owed to the City. Staff recommends continuing this matter to a date uncertain to allow for such resolution and any further public hearing will be noticed at a future time, as necessary.

ATTACHMENT: March 15, 2021 correspondence from Alan Fenstermacher

March 15, 2021

VIA E-MAIL

City of Buena Park
David Crabtree, Director
Community Development Department
6650 Beach Boulevard
Buena Park, CA 90622

Re: Revocation Proceedings for CUP No. CU-13-006
Best Host Inn

Dear Mr. Crabtree:

As you know, this office represents Loc Van Nguyen and Pannam Corporation (“Pannam”), the owner of the motel property located 8530 Beach Boulevard (“Property”) in the City of Buena Park (“City”). The Property is subject to Conditional Use Permit No. CU-13-006 (“CUP”), which allows its existing motel use. My client does not occupy or operate the Property, which is currently leased out to BestHost Inn, LLC (“Tenant”), pursuant to a 2013 lease.

The purpose of this letter is to provide an update on Pannam’s efforts to evict the Tenant from the Property as a result of Tenant’s ongoing violations of the City’s Municipal Code, including nonpayment of transient occupancy tax (“TOT”) and Tourism Marketing District (“TMD”) tax, as well as nonpayment of rent, and reaffirm Pannam’s ongoing intent to work with the City to improve the condition of the Property, and ensure the City is paid for all back owed TOT and TMD tax. My client believes the best way to do that is to remove Tenant from the Property, unless they immediately pay all past due amounts. Pannam appreciates the City’s patience, as the unlawful detainer process is cumbersome and time consuming, particularly during the COVID-19 backlogs and eviction protections.

Unfortunately, that process is not yet complete, and my client is hoping that the City will grant another continuance to allow Pannam to finally take back possession of the Property, and pay all TOT and TMD tax owed at that time. As explained herein, any payment by my client directly to the City at this time would actually undermine its pending unlawful detainer action, which is based in substantial part on the Tenant’s nonpayment of these sums. My client willing to enter into a binding agreement to pay all amounts owed when the unlawful detainer action has been resolved. Alternatively, Pannam is willing to accept a new condition on the CUP that specifically prohibits the current Tenant from operating the Property, which may actually be the best solution for both the City and Pannam.

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I. Background

In early November 2020, my client received a courtesy notice from the City that indicated the Property's CUP was subject to revocation proceedings, set for consideration by the Planning Commission at its December 9, 2020 meeting. This was the first my client had heard of this issue, as the City had been communicating with the Tenant, who failed to inform my client of anything relating to the City's ongoing Code Enforcement efforts, including the potential revocation of the CUP. Accordingly, in a November 12, 2020 letter, my office informed the City of its intent to evict and/or otherwise remedy the issues at the Property (and otherwise cooperate with the City), and requested a continuance of the December 9, 2020 revocation hearing. The Planning Commission graciously granted this request, continuing the hearing to March 24, 2021, so that my client could have time to evict the Tenant.

Since that time, I have been in communication with the City prosecutor, and my client participated in a meeting with City staff (along with myself and the City prosecutor), where we provided an update as to our progress in obtaining possession of the Property. The following summarizes the current status, and I will be present at the March 24, 2021 hearing to provide any additional updates and answer any questions staff or the Planning Commission may have.

II. Pending Unlawful Detainer Action

A. Timing

As you know, my client is actively pursuing an unlawful detainer action to remove the Tenant from the Property, based on both the nonpayment of rent and the nonpayment of TOT/TMD tax (*Pannam Corp. v. BestHost Inn, LLC*, Orange County Superior Court Case No. 30-2021-01177010). At this time, the best case scenario for a trial date is mid-April, assuming the Tenant agrees to a bench trial. However, the Tenant has not waived its right to a jury trial, which have been severely impacted by COVID-19 – jury trials have only recently resumed in Orange County, and there are only a limited number of courtrooms that can accommodate all of the social distancing requirements. Further, priority has been given to criminal trials, where the defendant has a constitutional right to a speedy trial.

In an attempt to more quickly resolve this matter, my client recently offered to settle the case if the Tenant pays the City all back-owed TOT/TMD in full, in addition to other conditions. The Tenant has not yet responded to this offer. The following briefly summarizes what has occurred to date in this case:

- Legally required notices served on the Tenant (12/18/20)
- Complaint filed, initiating the unlawful detainer lawsuit (1/4/21)

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- Tenant filed motion to dismiss the case, which was originally scheduled for 1/20/21, then 2/19/21, and finally continued to 3/5/21
- Motion to dismiss overruled (3/8/21)
- Tenant revived expired corporation
- Tenant's answer due on 3/19/21

B. Substantive Concerns – Unpaid TOT and TMD Tax

My client realizes that the City's biggest concern is the nonpayment of TOT and TMD taxes, and remains committed to doing whatever the City requires to ensure that the CUP for the Property is not revoked. However, my client has been advised by its unlawful detainer attorney that if Pannam directly pays the City the balance of the unpaid TOT and TMD amounts, a significant basis for the unlawful detainer action is mooted out, and my client will be less likely to prevail and force the Tenant off the Property, which we believe should be both my client and the City's ultimate goal. Landlord tenant law in California is very favorable to tenants, and protections for tenants have increased during the COVID-19 pandemic (in addition to very slow processing of unlawful detainer actions).

Considering all of the other issues occurring on the Property, my client believes it is in the best interest of all parties to ensure that the Tenant is removed from the Property – which solves all the other issues thereon – and then the City will also be made whole, financially. By contrast, if my client were to pay the unpaid TOT and TMD amounts now, this issue could reoccur if the Tenant continues to pay, and both the City and my client will be back at square one.

My client fully understands that this puts the City in a very difficult position. Accordingly, my client would be willing to enter into an agreement with the City that obligates Pannam to pay all of the unpaid tax amounts after the Tenant is removed from the Property, if the Tenant does not do so, and would even be willing to record such an agreement on the Property. My client is willing to be as creative as needed to satisfy the City in this regard.

III. Potential Amendment to the CUP

Alternatively, my client would agree to an additional condition placed on the CUP that specifically prohibits BestHost Inn, LLC from operating on the Property, based on its poor track record of complying with the City's Municipal Code. This is something the City Attorney's office may need to analyze, but from our perspective, this could remove the Tenant from the Property sooner than the pending unlawful detainer actions. We are happy to discuss this option further, if desired.

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In closing, my client would like to thank City staff and the Planning Commission for their patience regarding this matter to date, and wants to assure the City that we are doing everything we can to remove the Tenant from the Property and bring it into compliance with all applicable provisions of the Municipal Code, including payment of back taxes.

We look forward to continuing to work with you, and I remain available to answer any questions prior to or at the March 24, 2021 Planning Commission hearing.

Sincerely,

RUTAN & TUCKER, LLP



Alan B. Fenstermacher

ABF

cc: Greg Palmer, City Prosecutor