

CITY OF BUENA PARK  
MINUTES OF CITY PLANNING COMMISSION  
May 13, 2015

The regular meeting of the Planning Commission of the City of Buena Park convened at 7:00 p.m. on May 13, 2015, in the City Council Chamber, 6650 Beach Boulevard, Buena Park, California with Chair Chung presiding.

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

ALSO PRESENT:

Joel W. Rosen, AICP, Community Development Director  
Jay Saltzberg, Planning Manager  
Monique Schwartz, Assistant Planner  
Craig Fox, Deputy City Attorney  
Ruth Santos, Senior Administrative Assistant

**1. APPROVAL OF MINUTES Meeting of April 8, 2015  
Adjourned Meeting of April 22, 2015**

RECOMMENDED ACTION: Approve

Commissioner Capelle abstained from voting on the approval of the April 8, 2015 minutes due to her absence at that meeting.

Commissioner Barstow moved, and Commissioner Gonzales seconded, the motion to approve this item.

**Meeting of April 8, 2015:**

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

**Adjourned Meeting of April 22, 2015:**

AYES: 7 COMMISSIONERS: Barstow, Gonzales, Capelle, Diep, McGuire, Schoales, and Chung  
NOES: 0 COMMISSIONER:  
ABSENT: 0 COMMISSIONER:  
ABSTAIN: 0 COMMISSIONER:

**PUBLIC HEARING:****NEW BUSINESS:****2. CONDITIONAL USE PERMIT NO. CU-392M3**

A request to establish the sale of beer and wine for off-site consumption within an approved 1,996 sq. ft. convenience store to be constructed at an existing gasoline service station located at 6971 Orangethorpe Avenue within the CG (Commercial General) zone.

PROPERTY OWNER/APPLICANT: Northwest Dealerco Holdings, LLC  
Western Fuel Group  
29501 Canwood Street, Suite 200  
Agoura Hills, CA 91801

RECOMMENDED ACTION: Adopt Resolution of Approval

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

The staff report was presented by Monique Schwartz, Assistant Planner. The property is zoned CG (Commercial General) and is currently developed with a gasoline service station. The properties to the north and west are zoned CG and developed with Thanksgiving Church. The property to the south, across Orangethorpe Avenue, is zoned CG and is developed with Black Bear Diner. The property to the east, across Knott Avenue, is zoned CM (Commercial Manufacturing) and is developed with an office building.

Staff recommends that the Planning Commission adopt the attached Resolution approving Conditional Use Permit No. CU-392M3 with findings of fact and conditions.

The property under application is located on the northwest corner of Orangethorpe and Knott Avenues, with street frontages of approximately 141 ft. along Orangethorpe Avenue and approximately 120 ft. along Knott Avenue, and a total land area of approximately 16,748 sq. ft. The site was developed in 1972 with a gasoline service station, under Conditional Use Permit No. CU-392. In April 1987, the Planning Commission approved Conditional Use Permit No. CU-392M1 to raise the height of the fueling canopy.

On October 22, 2014, the Planning Commission approved Conditional Use Permit No. CU-392M2 to demolish the existing service station building and fueling canopy to allow construction of a new gasoline service station, with a 1,996 sq. ft. convenience store and fueling canopy, and Variance No. V14-001 to allow the drive aisles to encroach into the required 20 ft. landscape setbacks. At the time, the sale of beer and wine was not proposed.

The applicant has submitted an application and plans that propose the sale of beer and wine for off-site consumption (Type 20 Off-Sale Beer and Wine) within the approved 1,996 sq. ft. convenience store. As approved, the new convenience store building will be located along the west property line and set back approximately 20 ft. from Orangethorpe Avenue. Access to the site will be from Orangethorpe Avenue and Knott Avenue. There will be 8 standard parking spaces and 12 fueling spaces. The building will include a sales area, merchandise display, walk-in cooler, beverage bar, restrooms, utility room, storage room,

and office. A public entry/exit will be located along the east elevation and an emergency exit will be located on the north side of the new building; however the submitted building elevations do not show the entry/exit along the north elevation. The convenience market will provide beverages, prepackaged food, snacks, magazines and other convenience store items. As proposed, beer and wine will be stored in three refrigerated coolers and an end cap display located approximately 20 ft. from the east entrance and approximately 34 ft. from the cashier. The proposed hours of operation of the convenience store will be 7:00 a.m. to 11:00 p.m. 7 days per week, including sale of beer and wine, with gasoline available 24 hours each day. The business operations will require a total of 2 to 3 employees. The proposal includes provisions for 10 security cameras to be located both in the building and outside the building as well as security lighting.

City Code requires Planning Commission review and approval for the sale of beer and wine for off-site consumption within the new convenience store via the Conditional Use Permit process. In reviewing the applicant's request, staff reviewed plans and visited the property and is of the opinion that the proposed redesign and configuration of the service station and site improvements under CU-392M2 and V14-001 are adequate to support the proposed sale of beer and wine for off-site consumption. The floor plan of the convenience market indicates that the refrigerated coolers and an end cap display that store beer and wine are located approximately 20 ft. from the east entrance and approximately 34 ft. from the cashier. As conditioned to ensure appropriate security, a security plan shall be prepared by the applicant and approved by the Chief of Police prior to establishment of the approved use, and implemented at all times. Staff believes that the sale of beer and wine for off-site consumption is appropriate within the context of the new service station convenience store and will not negatively impact the subject and surrounding properties. The sale of beer and wine for off-site consumption will be incidental to gasoline and convenience market sales and will provide businesses, residents in the surrounding area, and existing service station customers with added amenities and services in a quick, one-stop shopping location.

The Buena Park Police Department reviewed the request to include the sale of beer and wine for off-site consumption ancillary to the operation of the gasoline service station and convenience store and had no objections to the request based on the provisions of the required Security Plan.

The project is Class 1, Section 15301, categorically exempt from CEQA.

Notice of public hearing was posted at City Hall, the Buena Park Library, and Ehlers Community Recreation Center on May 1, 2015, and 14 notices were mailed to property owners within a 300 ft. radius of the subject property on May 1, 2015.

Chair Chung asked if there were any questions of staff.

Commissioner Capelle asked if public hearing notices were mailed to the School District.

Ms. Schwartz said the School District was included in the 300-ft. property owner radius mailer regarding the public hearing.

Commissioner Schoales asked if staff had contacted the School District to ask if they received the notices.

Commissioner McGuire suggested that staff also contact the pastor of Thanksgiving Church.

Ms. Schwartz said although staff included the School District and the Thanksgiving Church in the required 300 ft. public notice radius, staff did not contact the School District and the Thanksgiving Church to confirm their receipt of the notices.

Commissioners Capelle and Schoales said that beer and wine was not proposed when the applicant applied for a Conditional Use Permit, with associated Variance, at the Planning Commission public hearing in October 2014, for construction of a new gasoline station/convenience store. Both commissioners expressed disappointment that, when asked at the public hearing in October 2014 if there was an intent to apply for an ABC license, the applicant said no.

Commissioner Barstow said there were previous similar applications that were approved by Planning Commission and later declined by the State Department of Alcoholic Beverage Control (ABC).

Commissioner Schoales recalled that many years ago, there was an objection from the Orange County Department of Education on an application that had been approved by Planning Commission.

Commissioner Capelle said the evaluation process when considering an application should include all facets of the proposal. She added that, had the ABC application been included in the October 2014 original application, she would not have voted for approval, because of moral responsibility to the community, due to the close proximity of the proposed facility to the school.

Commissioner Capelle asked if the applicant has required operational standards in place to ensure that minors do not have access to the liquor area of the store, which is located in one corner, away from the cashiers.

Chair Chung 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.

Keith Garner 6149 Bluffwood Drive, Riverside, CA 92506, and District Manager Abraham Caulkin, applicant representatives, said the applicant, aware that the construction process would take a longer period, submitted the original application first, and then followed it up with this application for ABC.

In response to Commissioner Capelle, Mr. Caulkin said there are about 10 to 12 cameras dispersed within the store, with some along the aisles, to monitor the activities. He added that the company has other convenience stores frequented by children from nearby schools and residential areas and that their employees are trained to acknowledge all customers coming into their stores.

Commissioner Capelle asked if there is a statutory limitation on the proximity of ABC-licensed premises to schools and churches.

Ms. Schwartz said that California Department of Alcoholic Beverage Control has limitations but the City does not.

Mr. Rosen said ABC sends out 600 ft. radius notices but has no blanket prohibitions.

Commissioner Schoales asked if staff had conducted research on State law regarding ABC licensing.

Ms. Schwartz read the following excerpt from her research:

“Article 1. In General - California Business and Professions Code Section 23789

23789. (a) The department is specifically authorized to refuse the issuance, other than the renewal or ownership transfer, of any retail license for premises located within the immediate vicinity of churches and hospitals.

23789. (b) The department is specifically authorized to refuse the issuance, other than the renewal or ownership transfer, of any retail license for premises located within at least 600 feet of schools and public playgrounds or nonprofit youth facilities, including, but not limited to, facilities serving Girls Scouts, Boy Scouts, or Campfire Girls. This distance shall be measured pursuant to rules of the department.”

Commissioner Schoales asked if staff will support his recommendation for continuance to ensure that the School District and the Thanksgiving Church are notified of the public hearing. He added that because the project is still in the construction process, continuing this item to a future date will not cause undue delay.

Mr. Rosen said that staff had not directly contacted the School District or the Thanksgiving Church and will respect whatever action the Planning Commission takes.

Commissioner Capelle said she is in favor of continuing the item until staff receives a letter of support from the School District and Thanksgiving Church.

Commissioner Diep reiterated that staff complied with the public hearing notice requirement, including mailing the required notices to the School District and the Church.

Commissioner Schoales asked if the notices to the School District and the Church were addressed to the Superintendent and the Pastor, respectively.

Ms. Schwartz said that, as is standard with legal notice mailers, the notices were addressed to the Buena Park School District and the Thanksgiving Church, as property owners.

Commissioners Schoales and Capelle said the notices might not have reached the Superintendent and the Pastor, or their lack of response could be due to a language problem on the part of the Pastor. Commissioner Schoales suggested that the letter to the School District be addressed to the Superintendent and the letter to the Church be addressed to the Pastor.

Commissioner Diep said the Pastor sent a letter of response to the first public hearing notice for the Planning Commission meeting of October 2014, and was present at that meeting, together with another church representative. Commissioner Diep asked about the rationale behind the seemingly preferential treatment of the School District and the Church.

Commissioner Capelle said taking the extra step, of making sure the School District and the Church acknowledge their receipt of the notices, would be prudent on the side of caution.

Mr. Fox said the absence of a response to a public hearing notice may be interpreted as the addressee's acquiescence to the proposal; putting a burden on staff to solicit a third party to come forward, if they may not have any interest, may be interpreted as staff being asked to be a witness to a public hearing which is not appropriate. He added that Planning Commission may make a motion to continue in order to allow staff to send another notice to the Superintendent and the Pastor.

There being no one else wishing to speak on the matter, Chair Chung closed the public hearing and advised that the item requires a Minute Action to approve continuance of Conditional User Permit No. CU-392M3.

Commissioner Capelle moved and Commissioner McGuire seconded the motion to continue the item to the Planning Commission meeting of May 27, 2015, to allow staff to notice the Superintendent of the Buena Park School District and the Pastor of Thanksgiving Church.

The MOTION CARRIED unanimously.

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

#### **ORAL COMMUNICATIONS:**

None

#### **AGENDA FORECAST:**

- CONDITIONAL USE PERMIT NO. CU-392M3 - To establish the sale of beer and wine for off-site consumption within an approved 1,996 sq. ft. convenience store to be constructed at an existing gasoline service station at 6971 Orangethorpe Avenue
- CONDITIONAL USE PERMIT NO. CU15-001/TENTATIVE TRACT MAP NO. TT15-001/MITIGATED NEGATIVE DECLARATION NO. MND15-01 - To demolish the Dickerson Elementary school buildings and construct 67 single-family detached homes with associated improvements at 10051 Bernadette Avenue.

#### **STAFF REPORTS:**

Mr. Rosen reported that City Council, at its May 12, 2015 meeting, considered the proposed OnBeach project and adopted a resolution declaring a drought emergency and implementing the Phase II Water Supply Shortage Program.

Mr. Rosen announced that the PD Open House will be held on Saturday, May 16, from 11:00 a.m. to 2:00 p.m.

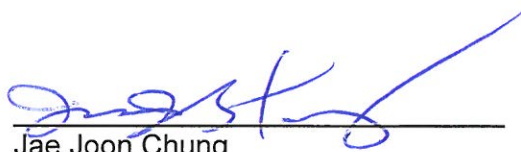
**COMMISSION REPORTS:**

Commissioner Diep announced that the Southern California Association of Governments (SCAG) is hosting a demographic workshop on June 1. She said anyone interested may access the web for more details.

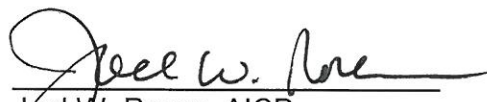
Commissioner Diep said she will be unable to attend the May 27, 2015 Planning Commission meeting.

**ADJOURNMENT:**

At 7:50 p.m., Chair Chung adjourned the meeting to the Planning Commission meeting on Wednesday, May 27, 2015, in the City Council Chamber.

  
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Jae Joon Chung  
Chair

ATTEST:

  
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Joel W. Rosen, AICP  
Secretary