

M I N U T E S

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE
GARDEN GROVE, CALIFORNIA

THURSDAY
MARCH 5, 2009

CALL TO ORDER: The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the Council Chambers of the Community Meeting Center.

PRESENT: COMMISSIONERS BANKSON, BEARD, BRIETIGAM,
KIRKHAM, NGUYEN, PAK, PIERCE
ABSENT: NONE.

ALSO PRESENT: Omar Sandoval, Assistant City Attorney; Susan Emery, Community Development Director; Karl Hill, Planning Services Manager; Dan Candelaria, City Traffic Engineer; Sid Ashrafnia, Associate Civil Engineer; Sergeant Kevin Boddy, Police Department; Teresa Pomeroy, Recording Secretary

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance to the Flag of the United States of America was led by Chair Pierce and recited by those present in the Chamber.

ORAL COMMUNICATIONS: None.

APPROVAL OF MINUTES: Commissioner Beard moved to approve the Minutes of February 19, 2009, with a correction, seconded by Commissioner Bankson. The motion carried with the following vote:

AYES: COMMISSIONERS: BANKSON, BEARD, KIRKHAM,
NGUYEN, PAK, PIERCE
NOES: COMMISSIONERS: NONE
ABSENT: COMMISSIONERS: NONE
ABSTAIN: COMMISSIONERS: BRIETIGAM

PUBLIC HEARING: SITE PLAN NO. SP-439-08 TIME EXTENSION
CONDITIONAL USE PERMIT NO. CUP-220-08
VARIANCE NO. V-171-08

APPLICANT: DARIO GONZALEZ
LOCATION: NORTH SIDE OF GARDEN GROVE BOULEVARD, EAST OF HAZEL STREET AT
9087 GARDEN GROVE BOULEVARD
DATE: MARCH 5, 2009

REQUEST: To approve a one-year time extension for the approved entitlements under Site Plan No. SP-439-08, Conditional Use Permit No. CUP-220-08, and Variance No. V-171-08, to demolish three existing structures, on a 6,500 square foot lot used for automobile smog and repair operation, and Site Plan approval to construct a single, new building for the same

business. Also, Conditional Use Permit approval for a Minor Auto Maintenance use in the C-1 (Neighborhood Commercial) zone, and a Variance to waive the rear yard setback. The site is in the C-1 (Neighborhood Commercial) zone.

Staff report was read and recommended approval.

Chair Pierce opened the public hearing to receive testimony in favor of or in opposition to the request.

There being no further comments, the public portion of the hearing was closed.

Vice Chair Pak asked why the applicant wanted the extension and how many extensions could be granted. Staff responded that the reason for the extension was partly due to the economy and issues with the engineer and the building itself. Extensions can be granted on a year-to-year basis.

Commissioner Beard moved to approve the one-year time extension, based on the report of progress being made as well as the completion of the environmental and soil study, seconded by Commissioner Bankson, pursuant to the facts and reasons contained in Resolution No. 5675. The motion received the following vote:

AYES:	COMMISSIONERS:	BANKSON, BEARD, BRIETIGAM, KIRKHAM, NGUYEN, PAK, PIERCE
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

PUBLIC HEARING: NEGATIVE DECLARATION
GENERAL PLAN AMENDMENT NO. GPA-1-09(A)
AMENDMENT NO. A-147-09
SITE PLAN NO. SP-450-09
CONDITIONAL USE PERMIT NO. CUP-262-09

APPLICANT: TRI NGUYEN THICH

LOCATION: SOUTHEAST CORNER OF CHAPMAN AVENUE AND NUTWOOD STREET AT
10510 CHAPMAN AVENUE

DATE: MARCH 5, 2009

REQUEST: General Plan Amendment to change the Land use designation from Office Professional to Low Density Residential; a Zone Change Amendment to rezone the 1.8-acre site to R-1-7 (Single-Family Residential) to allow a religious facility on the site; Site Plan approval to construct two, one-story buildings for religious purposes (Buddhist Temple) with the 5,261 square foot building for religious assembly and the 4,345 square foot building for living/residence space. Both buildings to have extended roof heights for architectural enhancement. Also, Conditional Use Permit approval for the operation of the proposed religious facility. The site is in the OP (Office Professional) zone.

Staff report was read and recommended approval; however, Public Works would like to add a condition that as an option to a sewer study on Nutwood Street, that the developer be responsible for sewer improvements and connections. Also, the Site Plan and Conditional Use Permit would not be effective until the General Plan Amendment and

Amendment for the zone change are approved by City Council. Lastly, staff has received over 60 letters in support of the project.

Commissioner Kirkham questioned whether asbestos testing could be conditioned prior to demolition of the building. Staff responded that it could be conditioned, and noted that asbestos testing is required by AQMD and EPA laws. It was suggested that it could be conditioned for the applicant to be required to provide documentation of AQMD and EPA compliance. Commissioner Kirkham noted that the Commission had asked to condition all projects on the requirement of documentation from AQMD and the EPA. Staff responded that this would be included in future projects.

Commissioner Bankson asked that termite abatement also be addressed prior to demolition in order to prevent issues with the neighbors.

Vice Chair Pak questioned whether the storm drain would be adequate to prevent flooding. Staff responded that there is a catch basin that is sufficient.

Commissioner Brietigam asked whether the project was properly noticed commenting that he didn't receive the customary email. Staff stated that the project was properly noticed.

Commissioner Beard asked whether the existing trees would have to be uprooted and the type of tree that would be planted; he also asked whether the lighting for the project would be shielded, and the access for trash pick-up. Staff stated that the project design does not allow for many of the existing trees, and would most likely need to be removed and possibly replaced with crape myrtle trees. The lighting is required to be shielded from the neighbors, and the design allows for trash trucks to enter from Chapman and exit on Nutwood. Commissioner Beard also asked whether the Knox box would only be used for emergency access and if it was correct that the ingress will be off of Chapman Avenue and egress off of Nutwood Street with a right turn only. Staff agreed that was correct.

Vice Chair Pak noted that the staff report states that the driveway off of Nutwood is right turn-in/out, and asked for clarification on whether Nutwood allows for ingress and egress. Staff responded that the text is wrong and the site plan elevation allows for a right turn out only onto Nutwood Street. Vice Chair Pak also asked whether the applicant has been approached to dedicate some land to widen Nutwood Street in order to provide a right turn lane. He commented that there is enough setback on the site to do this without eliminating any parking. Staff stated that the east side of Nutwood is red curbed and as you approach the intersection there is room for cars to turn right and left. Vice Chair Pak asked if it was possible to put in a dividing line to create a right turn only in order to avoid a situation whereby two cars attempt a left turn at the same time. Staff agreed that could be a possibility.

Commissioner Beard asked if the transformer would be underground. Staff responded that it will be a surface transformer, but it will be screened.

Chair Pierce opened the public hearing to receive testimony in favor of or in opposition to the request.

Phong Nguyen, residing in Foothill Ranch, approached the Commission and introduced himself as the designer of the project. Chair Pierce questioned whether Mr. Nguyen has read and agrees with the conditions of approval. Mr. Nguyen stated that the attorney representing the temple would discuss the conditions.

Ms. Belinda Helzer of 2140 W. Chapman Avenue, Orange, California, approached the Commission and introduced herself as a staff attorney from the ACLU representing the temple and the abbot in this on going case with establishing a Buddhist temple at this location. Ms. Helzer asked if condition number 54 regarding the applicant's responsibility for paying the city's legal fees in the event of any legal action was a condition that was applied to any other entitlement application whether religious in nature or not. Staff responded that this condition has been applied to entitlement cases within the past two years. Ms. Helzer commented that in the cases she has reviewed, she has not seen this condition of indemnification applied. Staff noted that the Commission could attest to the fact that within the last two years, this condition has been applied. Ms. Helzer stated that with all due respect, she would not like to see the temple being treated any differently than any other religious organization within the city.

She also asked that there be some negotiation between the city and the applicant with respect to condition number 14 that requires construction of a driveway apron off of Nutwood Street as well as the repair of uplifted sidewalks. She commented that certainly these improvements would benefit the temple, but also the city would benefit as well with a condition that more than likely predates the purchase of the property by the temple.

Vice Chair Pak questioned when the temple was purchased. Ms. Helzer stated that the temple was purchased in 2004 and has been operating under a preliminary court injunction since 2006 allowing the monastics to pray and meditate together pending a resolution of this issue.

Commissioner Brietigam questioned staff on whether condition number 14 is included to ensure repair to sidewalks due to the damage that will be caused with heavy equipment usage during construction. Staff stated that the concern is for repairing the current condition of uplifted sidewalks.

Vice Chair Pak noted that as a nonprofit, the temple is exempt from property tax. Ms. Helzer noted that as a religious organization, and regardless of religious denomination, the temple has a constitutional right to be exempt from property tax; she further commented that the temple serves the community by providing guidance and support.

Vice Chair Pak questioned why these conditions have not been discussed with staff prior to the meeting. Ms. Helzer claimed that the report was not received in time to review the conditions and to discuss these issues with staff. She also noted that she could not find the report on the city's website.

Commissioner Bankson assured Ms. Helzer that the temple is not being

singled out on this condition, and that it has been his experience in the construction industry that it is common for developers to make repairs on public property during construction. Ms. Helzer indicated that this condition is a burden for the temple as the temple is a nonprofit religious organization.

Chair Pierce asked if the temple had been asked to dedicate a portion of their property for street widening. Ms. Helzer stated that she didn't know.

Commissioner Brietigam noted the additional conditions of sewer line construction as well as asbestos testing prior to demolition and asked if the temple is in agreement with these additional conditions.

Staff also noted that the asbestos testing is required by AQMD and the applicant would have to comply prior to demolition. Staff further commented that any kind of negotiation in terms of waiving any kinds of fees for required public improvements would be under the purview of City Council.

Mr. Phong Nguyen, designer of the project, addressed the Commission stating that they are in agreement with the conditions for asbestos testing and removal prior to demolition, and would be working with the city with the sewer line.

Commissioner Brietigam asked if he is in agreement with tenting for termites and eliminating pests prior to demolition. Mr. Nguyen agreed.

Chair Pierce asked if he is in agreement with the conditions of approval.

Mr. Lon Tran, 1055 West 7th Street, Suite 2820, Los Angeles, ACLU co-counsel in the litigation between the temple and the city addressed the Commission. He expressed that condition 54, which requires that the temple take full financial responsibility for fees associated with a lawsuit filed against the city by a neighbor who is unhappy about the temple is a condition that is unfair. He noted that during the time of the settlement agreement between the temple and the city, there was no discussion of future indemnification, and he would not recommend that his client agree to this.

Staff pointed out that if there were a lawsuit filed against the temple by a neighbor, the city is not required to defend any litigation where the third party is the beneficiary of a lawsuit. If the condition were to be removed, and if the applicant is sued and the city is named, there is no legal requirement for the city to defend that lawsuit. The condition is a benefit for the applicant.

Commissioner Brietigam asked if this needs to be continued in order for the applicant to work out the conditions with staff.

Vice Chair Pak suggested abdicating to the City Council in order for the applicant be able to move forward.

Staff encouraged moving forward with the public hearing and giving the applicant an opportunity to work with staff on the conditions prior to final approval from the City Council.

Mr. Tran noted that condition 53 restricts the living quarters to monks and nuns and at times there are visitors from out of state who would need to stay a night or two, and he would like to have some language included in this condition.

Dat Le of 421 Morningside, Santa Ana, representing the Buddhist Family Association, and Joseph Dovich, interpreting for Mr. Le, approached the Commission. Mr. Le spoke in support of the temple and explained his involvement with the Buddhist Family Association and their commitment to promoting scouting within the Buddhist religion.

Mr. Bruce Tran of 13222 Cypress Street, Garden Grove, addressed the Commission, expressing his support of the temple complimenting the design of the project and stated that the temple will serve the Vietnamese American community. He commented that he appreciates the freedom to practice his religion.

Mr. Phong Nguyen, architect for the project, approached the Commission and stated he is available to answer any questions about the design of the temple. Commissioner Beard asked about the style of architecture and about the pond. Mr. Nguyen stated that the architecture is a combination of styles that joins a craftsman style with a traditional Asian style. An empty space was created by the handicap ramps, so he included a pond.

Commissioner Bankson expressed concern that the roofline appears to dwarf everything in the area because of the height. Mr. Nguyen responded that it is an Asian style, with the mass of the roofline lower than the peak.

Vice Chair Pak asked about the capacity of the temple, how long it will take to build the temple, and where the congregation would go while the temple is built. He also asked where Reverend Thich would stay during construction. Mr. Nguyen stated that the design is for the maximum of 300 people, and they have five years to construct the temple.

Ms. Helzer approached the Commission, and stated that the litigation agreement allowed five years to raise funds and build the temple. She indicated that the monastics are allowed to stay, and when the site is destroyed and the temple constructed, they will have to find a place to stay and at this point have not made firm plans.

Mr. Frank Steinhoff of 12161 Nutwood Street, approached the Commission. He stated that he did not receive a notice for the public hearing and he is very concerned about the impact of increased traffic. He commented that the existing facility is currently being used for religious purposes without the benefit of approval.

Ms. Patti Steinhoff of 12161 Nutwood Street, approached the Commission. She expressed her frustration with the city and her complaints that the facility is already being used as a temple and for weddings and events are largely ignored; she provided photographs of overflow parking on weekends at the Boys and Girls Club and complained that the traffic is already very heavy; she expressed that the neighbors don't want to see a temple built on this corner but are afraid of speaking out against the temple as there have been retaliatory threats. She is also concerned that construction on the temple will begin in the very early hours of the

morning as they had experienced with the CHOC building on Chapman Avenue.

Mr. Jim Loveder, 976 Sunderland Street, Santa Ana, approached the Commission. He noted that he is a board member of the Vietnamese Heritage and Cultural Foundation of America. He commented on the value of Buddhism providing spiritual growth, enhancement, and support for the community. He claimed that it is appropriate for Buddhist temples to conduct celebrations a few times a year and believes that weddings are held in homes and not at temples. He felt that after two years of litigation it is best to move forward and he supports the temple.

Venerable Thich Chon Thanh of 9561 Bixby, approached the Commission and introduced himself as the master of the Quan Am Temple and a representative of the Vietnamese Interfaith Council. Mr. Joseph Dovinh approached as well in order to read a prepared letter addressed to the members of the City Council from the Venerable Thich Chon Thanh that listed the service that has been provided to the Vietnamese community through the efforts of the Buddhist temples and it's associations. The Venerable Thich Chon Thanh requested support from the Commission.

Ms. Jenifer Le of 13182 Raleigh, approached the Commission. She noted that she and her mother regularly attend the Buddhist temple in Santa Ana. She learns Vietnamese and martial arts, and she would greatly appreciate the opportunity to have a temple closer to her home.

Ms. Linda La of 13182 Raleigh and Ms. Nimi Tran, approached the Commission. Ms. Tran read a prepared statement for Ms. La describing how the Buddhist temple has played an important role in her life and she feels that her children have benefited from the community services that are performed by the temple. She asked for support.

Mr. Tony Rector of 10522 Jenny Lane, approached the Commission. He expressed his anger over the temple using the facility illegally since 2004. He asked whether the lawsuit transcript between the city and the temple is available for public review. He asked for assurance that the temple would look like the proposed elevations. He commented on a past proposal for this site that was required to have two traffic studies and the project was still denied. This project has not had to have a traffic study. He thought that with the right turn in off of Chapman Avenue and the right turn out onto Nutwood Street will present a lot of problems. He asked that there be a parking study.

Ms. Quin Ngo approached the Commission. She stated that she has been going to this temple for five months every Sunday, and the parking lot is never full. Most of the congregants are elderly with many of the people car pooling. There are people using the parking lot by people are not associated with the temple. She commented that Buddhists believe in passive resistance and she doesn't believe any congregants would threaten retaliation to neighbors. She noted that construction crews would have to follow the city codes in terms of construction hours. She stated that the temple would welcome anyone in the community who would like to learn about Buddhism.

Mr. John Tran, 11251 Garden Glen, the Civil Engineer for the project approached the Commission. He stated that he proposed a retention tank that will mitigate the sewer issue. He stated that volunteers from the temple would direct traffic at peak times.

Commissioner Beard asked Mr. Tran if everyone leaves the temple at once after services are over. Mr. Tran stated yes, and that they would have volunteers direct the traffic.

There being no further comments, the public portion of the hearing was closed.

Staff noted that the Commission can act on all of the conditions before them and the applicant can appeal those conditions they don't agree with to the City Council. If the temple chooses to conduct special celebrations, they would have to apply for a special event permit. The site is an acre in size and located on an arterial street, and does not require any variances.

Vice Chair Pak asked about how many celebrations the temple will conduct, and he also asked about the allowance for the monks to live on site, noting that the priests for St. Columban's lives at the church.

Staff indicated that there are four celebrations a year; and St. Columban's was established prior to the City having the Conditional Use Permit process that conditioned religious facilities.

Commissioner Beard asked what would happen if after five years the project is not yet built. He also asked about condition number 53, and how that would apply to guests. Staff responded that the applicant would have to apply again for approval unless the lawsuit has addressed that issue. Condition number 53 does not allow the temple to be used as a boarding facility or a shelter, but to be used for religious monastics, which would include other monastic guests.

Commissioner Bankson asked about the parking ratio compared to the maximum capacity. Staff stated that the 130 parking spaces meet the code.

Commissioner Brietigam stated that he likes the design of the temple; however, he does not appreciate the applicant coming forward at the meeting to debate conditions at the meeting without first contacting staff.

Commissioner Kirkham stated that he likes this temple and is happy that it is going to be on an arterial street. He stated that as a former Traffic Commissioner, he is aware that Chapman Avenue can accommodate a lot of traffic, and he doesn't think that this is an issue. He noted that St. Columban's was told that street traffic has to be directed by the Police Department and suggested the temple check with the Police Department. He stated that the applicants do have a right to their temple as they do own this property and he expressed support.

Commissioner Bankson questioned whether the applicants would be held to the design proposed. Staff noted that the conditions address that the design submitted is being considered and that the site plan elevation is an

integral part of the entitlement. If the applicant requested a change in the design, it would have to come back to the Planning Commission for approval.

Commissioner Bankson commented in reference to a concern from a resident regarding construction noise before or after the time allowed by law, that it could become a police issue with the possibility of an arrest.

Commissioner Nguyen expressed his desire to learn about other religions, and has visited temples and noted that he has not witnessed mass exiting after services. The temples enhance the neighborhood by the appearance and the service they provide. He expressed support for the project.

Vice Chair Pak noted that in reference to a resident statement regarding a right turn in on Chapman Avenue and a right turn out on Nutwood Street, that there is ingress and egress to the off Chapman Avenue. He stated his support for the project.

Commissioner Beard noted that the conditions are standard and thought that the Planning Commission should keep the conditions as they are. He stated that no project is perfect; however, staff has done a good job with mitigating any issues. Traffic is an issue with all projects and that there would be more traffic if this property were to stay a medical office. He stated that he was most impressed by Jenifer Le, the young lady who spoke in support of the temple, and that she is a testament for the services that are provided by the Buddhist temples. He expressed that this temple is good for the congregants and for the city and he hopes that they meet with success.

Commissioner Brietigam moved to adopt the Negative Declaration, recommend approval of General Plan Amendment No. GPA-1-09(A) and Amendment No. A-147-09 to City Council, and approve Site Plan No. SP-450-09 and Conditional Use Permit No. CUP-262-09, with the modifications of the conditions to include sewer line improvements, AQMD documentation for asbestos, and termite inspection and treatment, seconded by Commissioner Kirkham, pursuant to the facts and reasons contained in Resolution Nos. 5673 (GPA/A) and 5674 (SP/CUP). The motion received the following vote:

AYES:	COMMISSIONERS:	BANKSON, BEARD, BRIETIGAM, KIRKHAM, NGUYEN, PAK, PIERCE
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

**MATTERS FROM
COMMISSIONERS:**

Commissioner Brietigam expressed that he would like to see landscape improvement along Lampson Avenue prior to entering Seal Beach. He likes the new Amber Alert sign, and appreciates an improvement done on the west side of Garden Grove.

Commissioner Kirkham announced the ribbon cutting ceremony for the Amber Alert sign is on March 10, 2009 at 5:00 p.m. at the sign installed on Valley View Street. He praised George Allen, former City Traffic Engineer for all of his hard works and effort for the city, and for getting the

grant money for the sign.

Commissioner Beard asked about cargo containers being stored next to the CHOC building and asked if that was allowed. Staff stated that the city would investigate.

Commissioner Nguyen asked if a foot massage could be a stand-alone business. Staff stated that if they do foot massage, they have to be a licensed cosmetologist, and be combined with another personal services . As a full body masseuse, they have to be fully certified and be subject to investigation.

Commissioner Bankson asked about the Eastgate Park sign and a tree that was hit by a car and asked if the individual's insurance company would have to cover the damage. Staff stated yes, and that the city would file a claim against the driver's insurance company.

Vice Chair Pak expressed concern about the police officer who was involved in a car accident that he witnessed. He also expressed his gratitude for serving on the Planning Commission and thanked staff for their help.

Chair Pierce questioned a newly installed electronic speed sign on Stanford. Staff noted that the sign is a radar feedback sign to let motorists know how fast they are going.

Vice Chair Pak expressed an interest to have a feedback sign on Main Street at Euclid. Staff noted that rumble strips have been installed at Main Street.

MATTERS
FROM STAFF:

Staff read a brief description of the Agenda items for the March 19, 2009 Planning Commission meeting.

ADJOURNMENT: Chair Pierce moved to adjourn the meeting at 9:40 p.m., seconded by Commissioner Beard. The motion received the following vote:

AYES:	COMMISSIONERS:	BANKSON, BEARD, BRIETIGAM, KIRKHAM, NGUYEN, PAK, PIERCE
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

TERESA POMEROY
Recording Secretary