

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER  
11300 STANFORD AVENUE  
GARDEN GROVE, CALIFORNIA

THURSDAY  
OCTOBER 4, 2012

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: VICE CHAIR CABRAL  
COMMISSIONERS BRIETIGAM, DOVINH, SILVA

ABSENT: BUI, LAZENBY, PAK

ALSO PRESENT: James Eggart, Assistant City Attorney; Susan Emery, Community Development Director; Karl Hill, Planning Services Manager; Lee Marino, Senior Planner; Maria Parra, Urban Planner; Lieutenant Robert Fowler, Police Department; Dan Candelaria, Traffic Engineer; Greg Blodgett, Senior Project Manager; Judy Moore, Recording Secretary

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance to the Flag of the United States of America was led by Commissioner Silva, and recited by those present in the Chambers.

ORAL

COMMUNICATIONS: Mr. Josh McIntosh approached the Commission and questioned the relationship between the developer, Brandywine, and Council Member Steve Jones. He also stated that campaign donations seemed to result in several City contracts for developers, which was not healthy for Garden Grove's reputation. He then suggested that Community Benefit Agreements (CBA's) could be project specific negotiated agreements with developers that outline contributions to the community, such as scholarships and tree plantings, and, that citizens need to work together as a 'voice' for future developments.

Staff pointed out that the Brown Act would prohibit discussion of items not on the agenda.

Vice Chair Cabral added that the accusations were not the purview of the Planning Commission, however, the suggested CBA's was an idea that could be explored and that Mr. McIntosh should speak to City staff on the subject.

APPROVAL OF MINUTES:

Commissioner Brietigam moved to approve the Minutes of September 20, 2012, seconded by Commissioner Dovich. The motion carried with the following vote:

AYES: COMMISSIONERS: BRIETIGAM, CABRAL, DOVINH, SILVA

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: BUI, LAZENBY, PAK

CONTINUED

PUBLIC HEARING: SITE PLAN NO. SP-470-12  
DEVELOPMENT AGREEMENT NO. DA-187-12

APPLICANT: BRANDYWINE HOMES

LOCATION: EAST SIDE OF DALE STREET, NORTH OF STANFORD AVENUE AT 12662  
DALE STREET

DATE: OCTOBER 4, 2012

REQUEST: Site Plan approval to construct a 25-unit, three story apartment complex with a 35 percent affordable housing density bonus for low to moderate income families within the R-3 (Multiple-Family Residential) zone. The project includes both two and three bedroom units and will range in size from 906 to 1,226 square feet. Pursuant to State Law regarding affordable housing projects, the applicant is requesting three waivers from the R-3 zone development standards – residential units within ten feet of a driving aisle; reducing the north side yard setback from ten feet to eight feet; and, allowing a zero yard setback for covered parking along the south property line to exceed the Municipal Code’s maximum of 50 percent. A Development Agreement is also proposed.

Vice Chair Cabral closed the continued public hearing.

Staff report was read and recommended approval, with amendments, specifically that the project waivers were reduced to two instead of the original three, and that the affordable units were reduced to four in lieu of six. One letter of support was written by Jeremy Harris of the Garden Grove Chamber of Commerce.

Staff then conducted a presentation on Affordable Housing Density Bonus Law and pointed out that one density bonus project was approved a few years ago for Dale Street. Staff added that this would not be the first time or last time for State intervention on Planning issues; and, that good reasons were required for not complying with State law.

Staff also read a part of Government Code regarding the Housing Accountability Act – Anti-Nimby Law – State law places strict limitations on a City’s discretion to deny any housing development pursuant to Government Codes 65589.5. In order for a City to deny a proposed housing development that otherwise complies with applicable objective General Plan and zoning standards and criteria, the City must base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist. The housing development project would have a specific adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project would be developed at a lower density and that there is no feasible method to satisfactorily mitigate or avoid that adverse impact other than the disapproval of the housing development project, or the approval of the project upon the condition that the project be developed at a lower density. Pursuant to the statute, specific adverse impact means a significant quantifiable direct and unavoidable impact based on objective identified written public health or safety standards, policies or conditions.

Staff stated that since the last Planning Commission meeting, the applicant had modified the request to reduce the waiver request to ‘two’ in lieu of ‘three’; that the waivers kept were to allow residential units within ten feet of the driving aisle, and to reduce the side yard setback from ten feet to eight feet along the northerly property line; that a portion of the covered

parking, along the southerly property line, would be replaced with open parking to eliminate the zero yard setback for covered parking along a property line to exceed the code maximum of 50 percent; that the total number of parking spaces would remain the same; and, that the required number of affordable units would be four in lieu of six.

Commissioner Silva asked staff to clarify the 35 percent density bonus reduction to 25 percent.

Staff explained that the density bonus remains at 35 percent per the base density of 18 units; that the 35 percent rounded up allows for 25 units; that the number of affordability units was based on a 'percentage' of the base density of 18 units, which resulted in four affordable units (20 percent); that two waivers was 20 percent (four units for moderate income) and three waivers would have been 30 percent (six units) of the 18-unit base density; and, that the State allowed the increase of density to 35 percent (25 units overall), if the developer provided the 20 percent of affordable units based on the base density of the 18 units.

Vice Chair Cabral re-opened the public hearing to receive testimony in favor of or in opposition to the request.

Brett Whitehead, the applicant, approached the Commission and stated that Brandywine had been building and creating jobs in the City of Garden Grove since 1996.

Vice Chair Cabral asked the applicant if he had read and agreed with the Conditions of Approval. The applicant replied yes.

Mr. Josh McIntosh approached the Commission and stated that apparently, a portion of the Brandywine construction crews did not speak English and were not United States citizens making working along side them difficult; that the migrant workers were not local; that Brandywine had not brought benefits to the community over the years, though the developer had benefited from their relationship with staff; that the cookie-cutter condominiums have replaced history such as beautiful farm houses; that the new 25 homes would have no guest parking, which would cause blight on Dale Street; and that litter, car alarms, and overcrowding were concerns and would lower the Garden Grove quality of life.

Ms. Brenda Martin, the real estate broker for the project, approached the Commission and stated that there were more cars on Dale Street from the single-family residences; that the project would not impact the neighborhood; and, that the sellers were thrilled to have Brandywine represent them.

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

Commissioner Silva commented that he knew Mr. McIntosh, however, his comments regarding people not speaking English were offensive.

Vice Chair Cabral stated that she understood Mr. McIntosh's concerns and agreed with some and disagreed with others, however, the Planning Commission was not the appropriate forum for such inappropriate comments; that she was offended that he took the opportunity to grandstand and needs to express his views in the appropriate forums; that she was grateful that Brandywine was willing to do business in Garden

Grove, however, she did not care for the density bonus State law as it appears the Planning Commission's hands were tied because the project would be approved whether the Commission liked it or not; and, that a previously submitted letter from Nona Margo expressed parking concerns to which she could relate as she was a resident on Dale Street and knew of the existing parking issues. She then asked staff how any safety impacts, especially regarding parking, were determined.

Staff explained that the State imposes the parking standards and does not believe parking would be an impact; and, that a project could not be denied based on parking.

Commissioner Brietigam asked if the parking issues differentiated by types of streets, especially regarding safety issues.

Staff responded that the projects have been in residential neighborhoods, not on main streets, and that this was the same argument the Planning Commission and City Council was up against years ago, as the community of Garden Grove was concerned about on-street parking and overcrowding; that the City's parking needs were higher than other cities, and the parking standard was raised; that there was no leniency from the State; and, that some other environmental issue, such as soil contamination, could be a cause of denial, but not parking.

Vice Chair Cabral then stated that she was in support of the project, however, parking was the major concern.

Commissioner Brietigam asked if soil tests had been performed.

Vice Chair Cabral re-opened the public hearing and asked the applicant if environmental soil testing was performed.

The applicant responded that soil testing and a Phase One analysis had been done and the site was clean.

Commissioner Silva asked the applicant to clarify reducing the six affordable units to four affordable units.

The applicant explained that there were three concessions originally and thought reducing to two concessions would be better for the Planning Commission and staff; that affordable housing was a good, and was requested by all the cities; that they were not asking for City funds; that with the loss of redevelopment agencies, which subsidized affordable housing, they thought they were doing a good thing.

Staff then pointed out that the Planning Commission would soon review the Housing Element, which was also State mandated through the General Plan, and which has RENA numbers for each city indicating the number of affordable housing units to be constructed, with progress shown over a five-year period; and, that this project helps the City to meet that goal.

Mr. McIntosh then approached the Commission and apologized for his previous statement as he believes in quality construction with local workers on any project in Garden Grove. He also asked that Garden Grove residents be considered first, and that a job fair to attract Garden Grove workers would be wonderful.

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

Commissioner Silva moved to recommend approval of Development Agreement No. DA-187-12 to City Council and approve Site Plan No. SP-470-12, with amendments, seconded by Commissioner Dovich, pursuant to the facts and reasons contained in Resolution No. 5780-12. The motion received the following vote:

AYES:	COMMISSIONERS:	BRIETIGAM, CABRAL, DOVINH, SILVA
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	BUI, LAZENBY, PAK

PUBLIC  
HEARING:

MITIGATED NEGATIVE DECLARATION  
GENERAL PLAN AMENDMENT NO. GPA-2-12(B)  
PLANNED UNIT DEVELOPMENT NO. PUD-128-12

APPLICANT:  
LOCATION:

CITY OF GARDEN GROVE  
NORTHWEST CORNER OF HARBOR BOULEVARD AND TWINTREE LANE,  
WEST OF CHOISSIER ROAD AT 12222, 12202, 12252, 12262, 12272,  
12292, 12302 HARBOR BOULEVARD; 12511, 12531, 12551, 12571  
TWINTREE LANE; AND, 12233, 12335, 12237, 12239 CHOISSIER ROAD

DATE:

OCTOBER 4, 2012

REQUEST:

To establish a Planned Unit Development zoning with development standards for the development of a full service hotel, two (2) limited-service hotels, conference/meeting banquet space, several restaurants and an entertainment venue on an approximately 5.8-acre site, along with a General Plan Amendment to change the General Plan Land Use designation of six (6) residential properties from Low Density Residential to International West Mixed Use. The proposed project would consist of 769 rooms within one (1) full-service and two (2) limited service resort hotels with approximately 39,000 square feet of conference/meeting banquet space; 45,000 square feet of restaurant/meeting pads; and, a parking structure with 1,297 parking spaces. The site is in the HCSP-TZN (Harbor Corridor Specific Plan-Transition Zone North) and R-1 (Single-Family Residential) zones.

Staff report was read and recommended approval. One letter was written from Procopio by Theodore J. Griswold on behalf of Sunbelt, regarding access and easement concerns for the adjacent Sunbelt-owned property.

Ms. Jayna Morgan, the Environmental Planner from AECOM, approached the Commission and described the project's Mitigated Negative Declaration (MND) process. She explained that the law to be followed was the California Environmental Quality Act (CEQA), which informs the public and decision-makers about the project and environmental impacts; that the analysis identifies feasible ways to reduce, avoid, or mitigate environmental impacts, which may change the project or implement mitigation measures; that significant impacts would be disclosed with mitigation measures to reduce the impacts to less than significant; that the public, and local and state agencies were able to comment on the environmental issues; that the public meeting on August 23, 2012 resulted in concerns with traffic; that five letters were received and responded to; that 17 impact areas were addressed with over 60 mitigation measures along with project modifications; and, that a sample of mitigations included aesthetics, lighting, traffic, air quality, noise, site plan,

greenhouse gas emissions, hazardous materials, water quality, street improvements, signalization, and utilities and services such as the Fire Department.

Staff added that the project community benefits would include 750 new jobs and generate 2.9 million dollars in revenue to the City. Staff also noted the proposed changes to the resolution.

Commissioner Brietigam asked staff to clarify what would prevent traffic from turning left at the right-turn only exit into the Twintree Lane residential area.

Staff responded that the traffic study indicates a raised and curved median strip in the driveway that would also have signs for a right-turn only.

Commissioner Brietigam asked staff if the Fire Department had high-rise equipment for rescue. Staff responded that Garden Grove teams with the City of Anaheim for mutual aide; that the City has one hook and ladder engine; that high-rise maneuvers were practiced; and that the hotels have sprinkler systems.

Commissioner Silva asked if the City owns the land. Staff replied that the City was the developer and owns 95 percent of the land, with three parcels yet to be purchased that include Joe's Italian Ice and two adjacent homes, along with the Sunbelt property; that the Agency was in continued negotiations with both parties; and, that the current design was the best concept at this point.

Commissioner Silva then asked if Joe's Crab Shack, with their parking situation, was per code, as restaurant patrons would likely not use the parking structure, similar to the Garden Walk. Staff agreed that the proposed restaurants along Harbor Boulevard would not have surface parking, however, a valet service may be provided, or if not, the proposed parking structure would be available; that there would be flexibility for drop-off and pick-up at restaurants, though the parking structure would also be for restaurant patron's use; and that the full service hotel would likely have a valet service.

Vice Chair Cabral asked if staff had a developer yet. Staff responded yes, that the Agency had selected a developer with a Disposition Development Agreement (DDA) with Land and Design.

Vice Chair Cabral asked if there would be sewer impacts. Staff responded that the area would tie into a regional line further south. Also, staff noted that in the Conditions of Approval, there were Fire Department conditions in Exhibit B with requirements for high-rise projects.

Vice Chair Cabral asked if negotiations had begun for the three parcels to be purchased and were the residents satisfied. Staff responded that the last portion of negotiations was continuing.

Commissioner Silva asked if the Sunbelt issue was addressed. Staff noted that the letter from Procopio/Sunbelt was received that afternoon and staff was not prepared to recommend conditioning the project to require the hotel developer to grant an easement, however, staff would speak to the property owner prior to consideration by City Council.

Commissioner Silva asked if complaints were allowed to be received up to the last minute. Staff replied yes, and that complaints could also be heard at the public hearing.

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

The City's representative, Mr. Matt Reid of Land and Design, the developer with the DDA, approached the Commission and stated that he was excited about the project and wanted to be a part of the community; that the parking structure physically goes under each restaurant, for parking and deliveries, and that the parking would be managed; and, that there was a commitment to put Garden Grove first in hiring contractors and reaching out to locals.

Vice Chair Cabral asked Mr. Reid if he had read and agreed with the Conditions of Approval. Mr. Reid replied yes, and that prior to construction the land must be fully assembled; that they hope to have the project open within two years of starting; and, at this time, they are approximately 18 months from groundbreaking.

Commissioner Brietigam asked for the public meeting concerns. Mr. Reid noted that from the several meetings, the concerns included general concerns that have since gone away such as the density for a small site and shade and shadow effects; that they want to create a project that meets the community's needs; and, that the full-service hotel would be the tallest in the area.

Commissioner Dovich asked for the project's name. Mr. Reid responded that the logos and naming process was in progress. Commissioner Dovich asked if there could be a naming contest. Mr. Reid replied yes.

Commissioner Dovich asked if once the project was built, could a developer buy it and open a casino. Staff replied no, that the current law does not provide for off-reservation gaming.

Staff added that before the Planning Commission was the General Plan Amendment necessary to make the properties the same General Plan designation of a PUD to establish zoning to allow the developer to build a hotel project; that the City would not build the project; that the zoning was being approved; and, that the environmental documents check the project.

Commissioner Dovich then questioned if the project had been offered to a developer. Staff replied no, that the Successor Agency has a DDA with Mr. Reid's company for the property to build a hotel resort; that this was the initial action, and there would be subsequent actions if the zoning and General Plan Amendment were approved to facilitate actual development of the site.

Commissioner Silva asked if the entire project was one developer. Staff replied yes.

Commissioner Silva then asked staff to describe 'restaurant/ entertainment venue' for the property next to Target. Staff deferred to the Mr. Reid, who stated that a type of venue would be a Dave and Busters, a venue other than food service such as a theater, or a House of Blues, who has interest

in the property; that they may build a hotel with a small entertainment venue next to it; and, that they wish to leave their options open.

Commissioner Dovich asked if the entertainment venue would include a night club or strip club, or be restricted. Staff replied that the venue would be restricted to avoid bad land uses and that any restaurant with entertainment would require a conditional use permit.

Several residents on Choisser Road, behind the proposed project, included Mr. Julio Madrigal, Lucia Madrigal, Nelson La Verde, Micaela La Verde, and Sandra Ellison. They approached the Commission and expressed their concerns regarding no sidewalks on Choisser Road, safety issues, traffic light and unsafe bus stop issues, the four houses the City owns behind the project, too many vehicles on streets, tenants in houses, affordable housing for low-income families, the hotel building height blocking visibility, parking issues, Sheraton traffic in neighborhoods, air quality issues from tour buses, residents operating businesses from their homes and that Code Enforcement only sends letters with no investigations; neighborhood deterioration; people potentially walking from the hotel through their area, loiterers, the future impact of the properties with the re-zone; that the City did not care about the residents; and, that though the hotel was good for the City, they would be in the project's backyard and there would be no benefits to residents.

Vice Chair Cabral asked staff what actions could be taken prior to the purchase of the properties. Staff responded that the Police could check the vehicles on public streets for licensing using the vehicle abatement group; that anything criminal in nature would be handled by the Police Department; that any business issues would be handled by Code Enforcement; and, that the information would be passed on.

Vice Chair Cabral then asked why the area had no sidewalks. Staff responded that there were many areas in Garden Grove without sidewalks; that past grant funding to put in sidewalks generated neighborhood meetings to find good candidates; that most people didn't want sidewalks, however, damaged sidewalks were replaced. Also, that staff was not successful finding whole streets that were open to sidewalks the length of the street.

Vice Chair Cabral asked that if the residents on Choisser Road were interested in sidewalks, how would residents know if grant funds were available. Staff responded that the City would check to see if funds were available.

Commissioner Dovich asked if the budgeting for sidewalks or the development of Choisser Road could be forwarded to City Council as a raised concern. Staff responded that the suggestion could be included in the motion.

Commissioner Silva asked staff to clarify the disposition of the four houses once the backyards were trimmed. Staff replied that the houses were not a part of the development plan and would remain single-family homes; that they would continue to be rentals; that the Agency may do something with the houses in the future and they were part of the rezoning; and, that there was no access to the neighborhood from the hotel property.



Commissioner Silva then commented that the City does care about its residents.

Vice Chair Cabral asked if a traffic signal would be installed at Harbor Boulevard and Twintree Lane. Staff replied no, that a signal would go in at the entrance precluding the installation of an additional signal.

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

Commissioner Brietigam expressed his support and reiterated that a wall would divide the hotel property from the residential area and that the only entry point would be on Twintree Lane and Harbor Boulevard; that traffic and parking would not be increased on Choisser Road; and, that the City would look into sidewalks and make improvements if requested by the residents.

Commissioner Silva was also in support, however, concerns with the four City-owned houses included that the homes were not a part of, and were irrelevant to, the development; that the developer seems to not want the houses included; and, that the City owns the homes for no apparent reason. He added that the rezoning that includes the four houses did not make sense as the homes had the potential of becoming something else over time.

Staff replied that the Successor Agency and the City purchased the homes as a mitigation measure due to shade and shadow issues; that the City had control of the homes; that the two northern homes were owned by the City and the other two by the Agency; and, that another reason was that the site needs a portion of the back yards.

Staff then added that a parcel cannot be rezoned in the middle as the whole parcel must be rezoned unless a map is first filed to separate the parcels; that the PUD stipulates that the four parcels remain R-1 (Single-Family Residential) zoning; and, that any modifications were subject to the R-1 zone.

Commissioner Silva then asked if the homes could be divested. Staff responded that this could happen in the future, however, not until the project was built; and, that whoever would own the home properties in the future had the right to put uses on that were allowed in the PUD.

Commissioner Dovinh agreed that the City could divest the properties, and asked staff, as an alternative, could the R-1 parcels be rezoned to provide a park? Staff replied yes.

Commissioner Brietigam responded to an earlier comment regarding a City employee living in one of the low-income homes and stated that not every City employee was wealthy and just because an individual works for the City doesn't mean that the person had high income.

Commissioner Dovinh expressed his support for the project and stated that the project had vision and needed to be thought through for future development; that the project would bring revenue to the City; that if the revenue was at the expense of neighbors who were impacted by the project with more traffic, parking, loitering or mismanagement of properties, the City needed to use the revenue to compensate the neighbors by addressing their requests for street development, sidewalks,

and traffic studies for safety issues; and, that the City Council should consider these requests.

Vice Chair Cabral echoed Commissioner Dovich's comments and stated that the City does care; that when residents bring issues forward, City staff would be there to help; that the developer wants to be a good neighbor; that if the unexpected occurs residents should contact the City; and, installing a traffic signal just because it is thought to be needed, may not be the case, as that could cause adverse affects as well.

Commissioner Silva asked if there was any way to mitigate the four homes. Staff replied that under the PUD, the uses permitted were specified and would be subject to R-1 zone standards for any uses and improvements.

Commissioner Brietigam moved to recommend adoption of the Mitigated Negative Declaration and approval of General Plan Amendment No. GPA-2-12(B) and Planned Unit Development No. PUD-128-12, with amendments, to City Council, seconded by Vice Chair Cabral, pursuant to the facts and reasons contained in Resolution No. 5779-12. The motion received the following vote:

AYES:	COMMISSIONERS:	BRIETIGAM, CABRAL, DOVINH, SILVA
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	BUI, LAZENBY, PAK

MATTERS FROM  
COMMISSIONERS:

Commissioner Brietigam asked staff if the mid-October date for the Lampson Avenue street improvement was on schedule. Staff replied that there was no update.

MATTERS FROM  
STAFF:

Staff read a brief description of future agenda items for the Thursday, October 18, 2012 Planning Commission meeting.

ADJOURNMENT:

Commissioner Brietigam moved to adjourn the meeting at 9:10 p.m., seconded by Commissioner Dovich. The motion received the following vote:

AYES:	COMMISSIONERS:	BRIETIGAM, CABRAL, DOVINH, SILVA
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	BUI, LAZENBY, PAK

JUDITH MOORE  
Recording Secretary