#### **Minutes**

Planning Commission April 20, 2009 City of Orange Monday–7:00 p.m.

PRESENT: Commissioners Imboden, Merino, Steiner and Whitaker

ABSENT: Commissioner Cunningham

**STAFF** 

PRESENT: Ed Knight, Assistant Community Development Director

Gary Sheatz, Assistant City Attorney Anna Pehoushek, Principal Planner Robert Garcia, Associate Planner Sonal Thakur, Assistant Planner Sandi Dimick, Recording Secretary

# **ADMINISTRATIVE SESSION:**

Chair Steiner opened the Administrative Session @ 6:52 p.m. with a review of the Agenda.

Item No. 1, Minutes from the regular Planning Commission Meeting of April 6, 2009. No changes or corrections were noted.

Item No. 2, General Plan Conformance Finding for FY 2009-2010 through 2016-2017 Seven Year Capital Improvement Program. Commissioner Merino stated it was the same information from the Study Session. Chair Steiner asked the Assistant City Attorney, Gary Sheatz, if there was any procedural information he should be aware of in making a motion on the item? Mr. Sheatz stated the only question that might come up would be in the event of an approval of some line items and not all of them; then a motion could be made for recommendation of the specific program or line items. Commissioner Whitaker asked if it was necessary to review the GIS Map to determine whether the Commissioners could approve a specific Capital Improvement project that fell within their area of conflict. Mr. Sheatz stated they had looked at that as well, and the Planning Commission would be reviewing the Capital Improvement projects as a whole under the General Plan. Commissioner Merino asked if their support of the projects should be based on a Planning Commission perspective and not on personal issues. Mr. Sheatz stated he had not gotten into the matter that deep in any of his previous research. Chair Steiner stated the decisions would be based on a Planning Commission perspective.

Item No. 3, General Underground Fire Protection. Chair Steiner stated he had spoken with the applicant. Commissioner Merino stated he had spoken with the applicant. There was no further discussion on the item.

Item No. 4, Wise Guys Pizzeria. Chair Steiner stated the item had been before the Planning Commission on a previous occasion. Commissioner Merino stated the CUP request was due to the expansion of the business. Assistant Community Development Director, Ed Knight, stated the applicant would have a change to Condition No. 22 which

read: there shall be no pool tables or coin operated games. The applicant wanted to have 3 games, which could be a combination of a pool table, an arcade game and a shuffle board game per the code. Commissioner Merino stated the applicant would be in conformance with that request. Chair Steiner asked if a Police Department representative would be present. Mr. Knight stated a representative from the Police Department would be present. The request to change the condition had been made late Wednesday or Thursday and the Police Department had not had time to review the matter and therefore could not make a statement whether they supported or opposed the project. Mr. Knight had spoken with the applicant to ascertain whether they would want to seek a continuance to allow the Police Department adequate time to review the change. The applicant was amenable to a continuance. The applicant had wanted to speak at the meeting to understand the process and the amount of time he would need to wait for the item to be heard again. Chair Steiner stated the applicant could decide to have the item heard. Mr. Knight stated that was correct, obtaining the information would allow him some flexibility and also the continuance would give him time for fire compliance. In adding the arcade games, it would reduce the applicant's occupancy limit and there would be a need for a fire wall and sprinkler system. Commissioner Merino stated it appeared that the applicant was not asking for anything outside the ordinance. Mr. Knight stated Sergeant Lopez would be available to answer questions and they would need to look at the totality of the operation.

Administrative Session closed at 7:00 p.m.

# **REGULAR SESSION:**

**PUBLIC PARTICIPATION: None** 

#### **CONSENT CALENDAR:**

# (1) APPROVAL OF MINUTES FROM THE REGULAR MEETING OF APRIL 6, 2009

Chair Steiner made a motion to approve the minutes from the regular meeting of the Planning Commission on April 6, 2009 as written.

SECOND: Commissioner Merino

AYES: Commissioners Imboden, Merino, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Cunningham

MOTION CARRIED.

# (2) GENERAL PLAN CONFORMANCE FINDING FOR FY 2009-2010 THROUGH 2016-2017 SEVEN-YEAR CAPITAL IMPROVEMENT PROGRAM

The Capital Improvement Program (CIP) serves as a single comprehensive plan of proposed capital improvement projects for the budget year FY 2009-2010 and the six years thereafter. In accordance with state law, the City must determine that the CIP is consistent with the General Plan.

NOTE: The CIP General Plan conformity determination report is not

a project under CEQA.

#### RECOMMENDED ACTION:

Find the projects identified within the proposed seven-year Capital Improvement Program are consistent with the City's

General Plan.

Commissioner Merino made a motion to recommend approval of General Plan Conformance finding for FY 2009-2010 through 2016-2017 Seven-Year Capital Improvement Program.

Chair Steiner asked the Assistant City Attorney, Gary Sheatz, if procedurally a motion would be required to move approval for recommendation?

Mr. Sheatz stated that was correct, to move recommendation.

Commissioner Whitaker stated he had been present at the study session and found the item acceptable.

Commissioner Merino stated he had been present at the study session.

SECOND: Commissioner Whitaker

AYES: Commissioners Imboden, Merino, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Cunningham

**MOTION CARRIED** 

#### **NEW HEARINGS:**

(3) CONDITIONAL USE PERMIT NO. 2686-07; MINOR SITE PLAN REVIEW NO. 534-07 AND DESIGN REVIEW COMMITTEE NO. 4292-07 – GENERAL UNDERGROUND FIRE PROTECTION

A proposal for an administrative office in excess of the 25% allowed in an industrial zone.

LOCATION: 701 W. Grove

NOTE: The proposed project is categorically exempt from the

provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15301 (Class 1 – Existing Facility) because the project is for the expansion of a

structure that is less than 10,000 square feet.

#### RECOMMENDED ACTION:

Adopt Planning Commission Resolution 18-09 for approval of an administrative office in excess of 25% in an industrial zone

Commissioner Whitaker was recused from the presentation as he had a client across the street from the applicant, at 732 W. Grove.

Chair Steiner stated that both he and Commissioner Merino had met with the applicant.

Associate Planner, Robert Garcia, presented a project overview consistent with the Staff Report.

Chair Steiner opened the item for any questions to Staff.

There were none.

Chair Steiner invited the applicant to step forward and address the Commission.

Applicant, Terry Householder, address on file, stated he was present for any questions and they were attempting to get their project moved along in order to get their corporate offices moved to the City of Orange from Anaheim. They had owned the property for approximately 2 years.

Commissioner Imboden asked for clarification on the meaning of Condition No. 2, page 4?

Chair Steiner asked if he was referring to the Condition that referred to the facility as remaining to operate as an industrial business.

Commissioner Imboden stated yes, that was correct.

Mr. Garcia stated Staff was trying to ensure that the business office remained at 37% of the gross floor area.

Commissioner Imboden stated the reason he asked was that it would apply to future tenants in that space.

Mr. Garcia stated that was correct.

Commissioner Merino stated, as he understood it, the application stood in and of itself and it would not set a precedent so that other tenants in the entire industrial complex would be allowed to go up to 37%, and that it would only be the proposed application and not set a precedent for all the other units to go up to 37% as well?

Mr. Garcia stated it was a stand alone business and it would be the only business on the property, and essentially Commissioner Merino was correct. If the business was in an industrial complex, the 37% would only apply to the applicant's business.

Commissioner Merino stated he was concerned as one of the reasons the 25% was set was due to parking conditions and other conditions that would be triggered by the amount of space dedicated to the administrative components of the business.

Mr. Garcia stated that was correct, particularly to the parking.

Chair Steiner stated the reference to the indication that the facility shall remain and operate as an industrial business where 37% of the gross floor area of the building would be dedicated to conducting administrative operations directly associated with an industrial business; would that mean that there could be no variation in the 37% or to not exceed 37% and he asked Mr. Garcia for clarification?

Mr. Garcia stated it would be to not exceed the 37%; it could go down, but not up.

Chair Steiner asked if he would agree if the Condition read, the facility shall remain and operate as an industrial business whose gross floor area, dedicated to conducting administrative office operations, directly related to subject's site industrial business shall not exceed 37%?

Mr. Garcia stated yes.

Chair Steiner asked the applicant if he agreed with the language for Condition No. 2 and he asked the applicant to come forward. Chair Steiner stated he had a concern that the Condition indicated, in a plain reading of the language, that it would need to stay at 37% and he wanted it to be clear that it shall not exceed 37%. There could be an instance where it could be less than 37% and the applicant would be allowed to do that. He asked the applicant if he understood and agreed to that.

Mr. Householder stated yes, he understood and agreed.

Chair Steiner brought the item back to the Commission for discussion.

Commissioner Merino made a motion to adopt Resolution PC 18-09, approving Conditional Use Permit No. 2686-07, Minor Site Plan No. 534-07, Design Review Committee No. 4292-07-General Underground Fire Protection, noting the item was categorically exempt from CEQA and incorporating the language suggested by Chair Steiner for Condition No. 2.

SECOND: Commissioner Imboden

AYES: Commissioners Imboden, Merino, and Steiner

NOES: None ABSTAIN: None

ABSENT: Commissioner Cunningham RECUSED: Commissioner Whitaker

**MOTION CARRIED** 

# (4) CONDITIONAL USE PERMIT NO. 2742-09 – WISE GUYS PIZZERIA

A proposal to serve beer and wine within a new eating establishment. The applicant requests the Planning Commission make a Finding of Public Convenience or Necessity to allow a Type 41 (On-Sale Beer and Wine for a Bona Fide Public Eating Place) ABC License.

LOCATION: 7604 & 7606 E. Chapman

NOTE: The proposed project is categorically exempt from the

provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15301 (Class 1 – Existing Facilities) because the project consists of the

operation and licensing of an existing structure

#### **RECOMMENDED ACTION:**

Adopt Planning Commission Resolution 16-09 approving the modification of CUP 2669-07 for a Type 41 (On-Sale Beer and Wine – Eating Establishment) to include the new 1,150 square feet of expanded restaurant.

square feet of expanded restaurant.

Assistant Planner, Sonal Thakur, presented a project overview consistent with the Staff Report.

Chair Steiner invited the applicant to step forward to address the Commission.

Applicant, Michael Ernst, address on file.

Chair Steiner stated before they proceed any further, the Commission had been informed that there had been a request made last week for a modification of Condition No. 22 regarding pool tables and such, and was that the applicant's understanding?

Mr. Ernst stated yes, that was correct.

Chair Steiner stated that the Police Department was not able to support that request.

Mr. Ernst stated they had come to an agreement that the Police Department would support the application; however, the Police Department was reviewing the language that would ensure that, in the future, the site would not turn into a tavern or pool hall.

Chair Steiner stated it was the Commission's understanding that the applicant was agreeable to continue the matter briefly and he asked the applicant what he wanted to do? He wanted the applicant to be aware that if he moved forward with the application that there was an indication, from Staff, that there could be some concern from the Police Department regarding the request for a change in Condition No. 22. It was possible that the Commission could hear the request and side with the applicant or it could be possible that might not occur. Chair Steiner stated if the applicant would prefer to allow Staff and the Police Department to review the request for a change to Condition No. 22 and continue the item for a short period of time they would be pleased to do that.

Mr. Ernst stated he was under the impression that the item would be continued to allow the Police Department and the City Attorney to have adequate time to create the proper verbiage, and in principal, it was agreed that the application would move forward with the pool tables and games added, not to exceed 3.

Chair Steiner stated ultimately it would be the Planning Commission that would determine what the applicant was allowed to move forward and he had not wanted the applicant to be under the impression that there were any guarantees. Certainly there were likelihoods about what would occur, and if the applicant wanted the item to be heard, it would not be necessary for a continuance. On the other hand, without all the information, there was no way of knowing what would be the outcome.

Mr. Ernst stated he was o.k. with the item continuing to the next Planning Commission Meeting, and he had been told by Staff that it would be on the next meeting's agenda.

Chair Steiner asked Assistant Community Development Director, Ed Knight, if that was correct that the item would be on the agenda for the May 4, 2009 Planning Commission Meeting?

Mr. Knight stated they would need to ask the Police Department Representative, Sergeant Lopez, if he would be able to accomplish that and it had been Staff's expectation that he could accomplish the review by the next Planning Commission Meeting.

Chair Steiner asked Sergeant Lopez if he could indicate by a nod whether he would be able to make it on May 4, 2009.

Sergeant Lopez nodded yes.

Chair Steiner made a motion to continue Conditional Use Permit No. 2742-09-Wise Guys Pizzeria to a date certain of May 4, 2009, based on the applicant's desire for a continuance.

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SECOND: Commissioner Whitaker

AYES: Commissioners Imboden, Merino, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Cunningham

**MOTION CARRIED** 

# (5) ADJOURNMENT

Chair Steiner made a motion to adjourn to the next regular meeting of the Planning Commission on Monday, May 4, 2009.

SECOND: Commissioner Merino

AYES: Commissioners Imboden, Merino, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Cunningham

**MOTION CARRIED** 

**MEETING ADJOURNED @ 7:20 P.M.**