

PLANNING COMMISSION
Minutes of Regular Meeting
Westminster Council Chambers
8200 Westminster Boulevard
Westminster, CA 92683
April 4, 2007
6:30 p.m.

- Call to Order** The Planning Commission of the City of Westminster met in a regular session on Wednesday, April 4, 2007 called to order in the Westminster Council Chambers, at 6:37 p.m. by Chairman Turro.
- Roll Call** Commissioners present: Chow, Contreras, Krippner, Turro
Commissioner absent: Lam
- Staff Attendance** Art Bashmakian, Planning Manager; Michael Patterson, Assistant Planner; Phil Bacerra, Assistant Planner; Shelley Dolney, Special Services Clerk; and Christian Bettenhausen, Deputy City Attorney.
- Salute to the Flag** All persons present joined in the Salute to the Flag, conducted by Vice Chairperson Chow.
- Approval of Minutes** On motion by Commissioner Krippner, seconded by Commissioner Contreras, the minutes of the regular meeting of March 7, 2007 were approved to include Commissioner Contreras' correction to reflect his time of arrival of 7:05 p.m. The motion carried 3-1-1, Commissioner Chow abstained, Commissioner Lam.
- Oral Communications** None
- Written Communications** None
- Public Hearing** A. Case 2006-87 Conditional Use Permit (Continued from 3/7/2007). Location: 14541 Brookhurst Street, Suites B5 and B6 (Assessor's Parcel Number 098-594-11). Café Luc Huyen Cam. The applicant is requesting a conditional use permit to allow sales of beer and wine for on-site consumption [Alcoholic Beverage Control (ABC) type 41 license] in conjunction with an existing 2,044-square foot restaurant located in an established commercial center.
- STAFF RECOMMENDATION: That the Planning Commission approve Case No. 2006-87 based on the findings and conditions as outlined in the proposed resolution.

Mr. Michael Patterson made a brief presentation to allow sale and consumption of beer and wine together with an existing restaurant and recommended that the Planning Commission approve the proposal based on the findings and conditions listed in the draft resolution.

Chairman Turro inquired about the applicant's request for "entertainment" on page 5 of the staff report as he does not see it anywhere else in the report. Mr. Patterson explained that he failed to correct the original request which included "entertainment", but the applicant is no longer requesting it.

Commissioner Krippner inquired about the public hearing notice statement on page 2 of the staff report which states a public hearing notice was mailed to all property owners of record within a 500' radius of the Westminster Mall. Mr. Patterson explained that this was his error and the statement should read that it was mailed to all property owners of record within a 500' radius of the subject site which is located at 14541 Brookhurst Street, Suites B5 and B6.

Commissioner Krippner inquired about page 3 of the staff report. Which reads "interior alterations have been initiated." He wanted to confirm if these are alterations that have been initiated without permits. Mr. Patterson explained that all interior tenant improvements thus far have been permitted.

Commissioner Contreras inquired about page 4 of the staff report in which the police department transmittal shows the census tract is allowed 7 on-sale and 4 off-sale before being considered oversaturated, but currently has 10 on-sale and 4 off-sale licenses. Mr. Patterson confirmed that was correct.

The public hearing was opened and the applicant's son, Mr. Michael Tran of 6032 East Westview Drive, Orange, California, confirmed that he should be able to answer any questions on behalf of his mother Tung Tran.

There was no one present to speak in opposition. The public hearing was closed.

Commissioner Krippner was concerned with the census tract allowing 7 on-sale licenses and it currently has 10. He states that the area is 35% over the saturation and therefore he could not support the request.

Commissioner Chow asked that staff obtain a police report for the applicant's previous location in Garden Grove which operated as a Vietnamese coffee shop and she wanted to see if they had any problems at that location.

Chairman Turro stated he was concerned about not allowing this request since they had approved Caravan Seafood earlier. He asked the applicant if they had an alcohol license at the previous location in Garden Grove. Mr. Tran confirmed that they did not have a liquor license at their other location. Chairman Turro was agreeable to the request if there will be no lounge, no bar, or no entertainment.

Chairman Turro stated the police report does not consider this a high crime area and they do not anticipate an increase in calls for service at the location if the business operates as a fine dining restaurant. In addition the police department has imposed conditions that the applicant needs to comply with.

Chairman Turro stated he intends to vote yes on this item.

Commissioner Krippner stated that getting the police report for the previous location is not relevant as it was a coffee shop and no alcohol was sold there.

Commissioner Chow stated she wants to see the police reports before she votes yes or no. She wants to have more information on how they ran their business in the City of Garden Grove.

Christian Bettenhausen stated that if the commission wants the police report, a motion to continue it to another meeting to allow staff the time to get the report, would be appropriate.

Motion

Commissioner Chow moved that the Planning Commission continue Case No. 2006-87 to the next meeting of April 18, 2007, when staff could present a police report from the City of Garden Grove. Commissioner Contreras seconded the motion.

Commissioner Krippner stated that the applicants are already altering the interior and they did not show up tonight to make a formal application in person. He stated that the applicants may anticipate approval and maybe the City is getting a reputation that we are soft on alcohol. He planned to vote no.

Mr. Bashmakian proposed that the Commission continue to the next scheduled meeting.

Commissioner Chow confirmed that it will be a motion to the next meeting and the case will be continued from there if the police report is not present.

The motion to continue to next scheduled Planning Commission meeting carried 4-0-1 with Lam being absent.

B. Case 2006-102 Conditional Use Permit, Site Plan, Design Review.

Location: 8952 Hazard Avenue (Assessor's Parcel Number 097-341-24). California Zoroastrian Center. The applicant proposes a 7,190 square foot addition to the existing 9,170 square foot California Zoroastrian Center. The proposal will expand the library, add new classrooms, update the restrooms and provide an additional lobby area.

STAFF RECOMMENDATION: That the Planning Commission approve Case No. 2006-102 based on the findings and conditions as outlined in the proposed resolution.

Mr. Phil Bacerra made a brief presentation to allow expansion of the library, to add new classrooms, to update the restrooms and provide an additional lobby area. He recommended that the Planning Commission approve the proposal based on the findings and conditions listed in the draft resolution.

Mr. Bashmakian stated that staff had received a letter from a concerned citizen, Helen Gardner of 8901 Williamsburg Avenue, Westminster and he wanted read into the record. She wanted to convey her concern about the noise level and late night activity at the project location and requested denial for those reasons. Chairman Turro Confirmed that all members of the Planning Commission have a copy of the letter.

Chairman Turro confirmed that there are no additional questions for staff. There were none. He announced the public hearing as open.

Speaking in favor was Ken Agharokh of 1431 Warner Ave #A, Tustin. He is the architect for the project. He stated that he was present to answer any questions regarding the proposed project.

Speaking in opposition was Kirk Gardner, of 8901 Williamsburg Avenue, Westminster. He stated that he lives in a house behind the church. He indicated church functions last till 2, 3 or 4 causing noise impacts. He mentioned parking impacts on the neighborhood when both churches are in session.

Chairman Turro asked if there is anyone else in opposition. There was nobody else present. Chairman Turro called up those in favor for rebuttal.

Ken Agharokh stated that there was 135 feet distance from the building to the residence which was all parking area. All functions are conducted in the building. He also stated that they do not have services during the week and services on Saturday and Sunday are from 10 o'clock in the morning until about 9-10 o'clock at night.

Commissioner Chow asked Mr. Agharokh about the later hours in the center referencing Mrs. Gardner's letter. Mr. Agharokh stated that the late night celebration does not happen all the time, it may happen once a year as the Zoroastrian religion also celebrates the new year of Uranian. He further stated their regular ceremonies and religious worship does not go further than 10 o'clock at night. Commissioner Chow inquired how long it takes to vacate the property. Mr. Agharokh explained that there were 68 parking spaces so it would not take longer than 30 minutes to vacate the premises.

Chairman Turro stated it is time to close the public hearing and to take it under advisement.

Chairman Turro asked Mr. Agharokh in regards to the total number of participants stated would not exceeding 600 people and confirmed that would be post completion of the project. Mr. Agharokh stated that currently they can accommodate 400 people at the center. Chairman Turro stated that he wished they had got the information several weeks ago to be able to check out the parking themselves. He asked Mr. Agharokh to explain how 400 people can park in 68 parking spaces. Mr. Agharokh explained that people ride together and take public transportation. He wanted to make an additional comment that the parking meets the requirements as stated by the City of Westminster.

Chairman Turro stated that he knows other people have celebrations and they pull permits for that and the celebrations to the best of my knowledge are done at a reasonable time.

Chairman Turro asked Mr. Agharokh to forgive him for his ignorance of this religion; he wished to know if the church celebrates a mass type of service. Mr. Agharokh explained that they have services on Sunday starting at 10 a.m. to 10 p.m.

Commissioner Krippner wanted to clarify that services end at 10 p.m. and Mr. Agharokh confirmed that was correct.

Commissioner Krippner inquired about page 8 of the staff report; he is confused about the on-site parking numbers. The required number of parking stalls are 45, 6, 8 that adds up to 59 not 62. He wanted to know where the number of 62 came from.

Mr. Bashmakian provided background information and information about the original entitlement. He stated that he will review the materials and respond to the question.

Commissioner Krippner asked if the applicant would be willing to notice the neighborhood before they have events. The applicant agreed. He further stated the church has a parking agreement with the adjacent medical center which is closed on Sundays.

Commissioner Chow inquired if there was a way that we could drown out the noise and regulate the closing hour. She stated that she knows this is a worship center, but she would like to see what we can do to accommodate the neighbor directly behind it.

Mr. Bashmakian stated that it was easier to address concerns such as noise and hours of operation related to uses such as restaurants but regulating religious institutions is a little bit more difficult as we are dealing with a religious freedom issue.

Christian Bettenhausen stated imposing conditions are fine as long as they are similar to conditions that you would impose on anybody else and if it is reasonable to put a restriction on a facility like this given its location in a residential zone you would be fine to do that. He further explained that imposing conditions would be fine as long as they were reasonable and were not done in any way to discriminate against a religious institution. Also, requiring that they get a special event permit or permission from the City to have events would not be unreasonable as you are trying to protect the residents in the area.

Mr. Bashmakian responded to Commissioner Krippner's earlier question in regards to parking. He apologized for not getting it on the report and wanted it noted that should the planning department approve this project, there is a condition that should be in there, that this approval incorporates the conditions of approvals from case number C-553.

Commissioner Contreras pointed out that there is another church in the neighborhood to consider and that they could be contributing to the noise and/or traffic problems. He inquired about what can be done as the design goes that would also reduce some of the noise levels, I know trees were mentioned, but what else can be done.

Mr. Bashmakian stated that there may be opportunity to reduce the noise depending on where the source of the noise is coming from. Design issues that could be looked at, or maybe doors could be closed during services.

Chairman Turro asked Mr. Gardener if he had always lived at that address and was the noise always a factor at that address, 8901 Williamsburg Avenue. Mr. Gardner confirmed that he has always lived at that location, with the exception of about two years, and the noise has been a factor over the years and it is more than once or twice a year. The noise frequently goes up until 2 or 3 in the morning. He wanted to point out that he did say that parking was an issue when both Churches are in session to respond to a comment by Commissioner Contreras.

Commissioner Chow stated that she is not at all against the expansion but would like a way for staff to accommodate the neighbor directly behind it to drown out the noise. She stated if a compromise can be made then she would vote yes on the proposed project. She inquired if the wall could be raised.

Mr. Bashmakian stated that the Commission could condition that there be a wall along the south property line but the neighbor may not desire a wall over a certain height due to aesthetics.

Chairman Turro then asked if we could put in our motion that any activity that goes past 10pm can only occur 2 or 3 times a year.

Mr. Bashmakian stated that you could condition it as such to safeguard the neighborhood as it is a residential area and as long as the conditions are reasonable and they are not interfering with a reasonable exercise of religion.

Chairman Turro stated that he is just saying that we can set a time, and 2-3 times a year that they are allowed to go after that time and they would need to get a special permit.

Christian Bettenhausen clarified that Mr. Agharokh stated that the hours go up to 10pm and you may want to call him back to ask him

as it depends on what he does on a regular basis. You can impose conditions as long as the church is treated equally.

Chairman Turro asked Mr. Agharokh what the normal operating hours are of the center during the week. Mr. Agharokh states that it is 10 a.m. to 10 p.m. during the week and people come on an individual basis to the sanctuary for prayer. He also stated that everyone vacates the property after 10 p.m. except the on-site care takers that reside at the center.

Commissioner Contreras stated that we should not rule out the possibility that maybe there could be something done on that wall. Mr. Agharokh confirmed that we can raise the height of the wall and add some additional trees but the noise may still transfer.

Chairman Turro wanted to confirm how many special occasions they have throughout the year. Mr. Agharokh stated that he was not of that religion so he would not be able to answer the exact number. There were people were present from the Zoroastrian Center but did not speak during the public hearing. Chairman Turro stated those present from the center would be unable to get up to speak as they did not speak during the public hearing and that is a concern as they don't want to impose restrictions that may cause the center a problem.

Christian Bettenhausen stated that he may wish to go ask those present from the Center the questions presented to him such as the following conditions: If they have any objections to condition that would limit the hours of the church operation for regular church service activities, a condition that would limit their ability to hold special events in the evening past 11pm without first obtaining a special events permit from the City, and a condition to work with City to find an agreeable solution in order to buffer the noise.

Commissioner Krippner stated the proposed liquid amber tree is deciduous and doesn't buffer noise, he confirmed with Mr. Agharokh that they would be agreeable to work with staff and come up with an alternative tree to better buffer the noise. Mr. Agharokh stated that it would be an agreeable option. Commissioner Krippner stated that it should be written in as a condition.

Commissioner Chow asked Mr. Gardner if raising the wall would be agreeable. Mr. Gardner stated that does not seem to be a viable solution as they have mature avocado trees that may die if the wall is raised. He further states that he does not have a problem with the center practicing their religious beliefs but he does not want his

family or his neighbors infringed on because of it and he knows it is a fine line there.

Commissioner Chow stated her proposal would be to allow them until midnight on Saturday but limit them until 10 p.m. on Sundays and weekdays. On special occasions like New Years celebrations they need a special permit to hold the event but need to keep it to a reasonable hour if it happens to be on a weekday or a Sunday. Regarding the noise level, she would like for staff to work with the applicant and Mr. Gardner to find a reasonable solution.

Commissioner Contreras stated he didn't want to limit the way that they worship but a limitation on the time they congregate in the parking lot may be advisable.

Christian Bettenhausen stated that the City can put limitations when the special events permit is requested. We can put limitations on it stating that the event will be from this time to this time and we can put a condition that they not loiter and things of that sort, but the problem with that is that it is so difficult to enforce. Also, it is not inappropriate to have them fill out a special events permit since the events may go on to an unreasonable hour in many cases. However, the City may be under some kind of limitations as to if they can refuse the permit at a later time, but reasonable restrictions are appropriate.

Commissioner Krippner asked Ken Agharokh about the March 20th date that was mentioned previously and wants to know if the actual celebration has to do with the actual moment that the spring equinox happens and how far people come for that celebration. Mr. Agharokh confirms that the Zoroastrian New Year is when spring happens, however the members celebrate individually at home during the week and would come to the center for celebration on the weekend. He stated that the attendance for the celebration is mostly people from Orange and Los Angeles counties.

Chairman Turro asked Mr. Agharokh if he had an opportunity to speak to the church representatives in regards to conditions that may be imposed. Mr. Agharokh states he did talk to the members of the church and they said their regular weekday hours are from 10am-10pm and the center is open from 10am-11pm on Saturday and Sunday. Chairman Turro asked if they are ok with restricting the number of days they may go past that time by requiring a special permit. Mr. Aghorakh stated the Center was ok with the conditions that were discussed. Chairman Turro asked him to find out which days they must have an after hours celebration.

Commissioner Chow asked Mr. Agharokh if it would be possible for the center to designate a person to be available and is it possible to post a number so that if the neighbors call if they have a complaint. Additionally, would it be possible to post monitors in the parking lot after the affair is over so that the noise levels can be monitored. Mr. Agharokh stated he will ask that.

Commissioner Krippner stated that it boils down to mutual respect. We are trying to respect other religious beliefs that we are not real familiar with and we are asking for respect from the church to respect the neighbors and to cooperate with the community.

Chairman Turro asked Mr. Agharokh if he has found out about the number of special events per year. Mr. Agharokh stated that they have 3 or 4 in each year and they would agree to people monitoring the parking lot to make sure that the noise is down, they will post a number outside the church, and additionally they can put a fence up with some insulation like a sound barrier to take care of the noise if you want.

Christian Bettenhausen stated in light of the concerns, I was going to suggest a condition limiting the hours of operation and events that occur past those hours to require a special events permit from the City. And as a condition of holding any event beyond the regular hours of operation, the applicant will remind the attendees to be considerate of surrounding neighbors, to notify neighbors in the surrounding neighborhood at least 1 week in advance of the event, and provide a telephone number to speak to someone with any complaints they may have, and to post monitors during those events to help keep the attendees from making excessive noise during the periods when they are arriving or leaving. Mr. Agharokh stated those items are agreeable.

Chairman Turro inquired of staff how many residents were within 500' of the church. Mr. Bashmakian stated that it was about 94 homes. Chairman Turro commented that he felt that was reasonable to notify those people each time there is an event. Commissioner Krippner concurred.

Commissioner Chow stated to keep in mind this is a worshiping center not an entertainment center.

Commissioner Contreras stated there is a condition to find an agreeable solution to the noise levels on the south property line and he wanted to put a "reasonable" statement on that condition.

Mr. Gardner stated that he was not unwilling to work with the center; he is very willing to work with them so they can exercise their religious freedom, but they were asking for one of the conditions is a phone number that is provided and he wanted to make sure that phone number was monitored during the times of events.

Chairman Turro stated that we will work out something with them so that there will be a phone that will be available and someone will answer it.

Motion

On motion of Chairman Chow, seconded by Commissioner Krippner, the Commission approved Case No. 2006-102 based on the conditions imposed in the draft resolution including the additional conditions: (1) whenever there is a special event going on or even during weekends when they have their events, there must be a live person to answer the phone; (2) hours of operation will be from 10 am-11 pm Sunday through Friday and 10 am-12 am on Saturdays, with a half hour to vacate the parking lot; (3) for special events, they need to get a permit; (4) for the applicant to work with staff to see if there is a reasonable solution to drown out the noise level; (5) parking lot monitors; (6) 500' radius mailing for notification prior to special events; (7) posting of sign with phone number on it for complaints. The motion carried 4-0-1, Commissioner Lam absent.

The Planning Commission called a break at 8:40pm, the Planning Commission resumed at 8:55pm.

- C. Case 2006-107 Variance. Location: 14231 Alta Street (Assessor's Parcel Number 195-171-14). The applicant is requesting a variance to allow a room addition to an existing house that will encroach 2.5 feet into the required 4 foot side yard setback, and variances from the following standards in order to convert a hobby room into a second dwelling unit: To allow the second unit on a 5,400 square foot lot whereas code requires a minimum lot size of 7,000 square feet; to allow the second unit to be detached from the main house whereas code requires such units to be attached to or within the main house; to not provide a single garage parking space whereas code requires a garage for a second unit; and to maintain a 5-foot rear and street side setback whereas code requires a 20-foot rear setback and a 10-foot street side setback.

STAFF RECOMMENDATION: That the Planning Commission deny Case No. 2006-107 based on the findings as outlined in Resolution Number 2006-107.

Mr. Michael Patterson made a brief presentation to deny the applicant's request for variances relating to the secondary dwelling unity and setback requirement for a room addition in the front of the home.

Chairman Turro asked if there were any questions of staff. There were no questions for staff at this time.

Chairman Turro opened the public hearing.

The following spoke in favor to approve the project: Michael Carrillo of 14231 Alta Place, Westminster; Debra Carrillo of 14231 Alta Place, Westminster; Matthew Peterson of 14232 Alta Place, Westminster; Tom Callahan of 928 Lake Street, Huntington Beach; and Jacqueline Berger of 14162 Alta, Westminster.

Michael Carrillo placed a map and some examples of pictures of the neighborhood on the elmo machine to show the way the community was laid out and houses in the area that were not unlike his own with buildings that did not meet the required standards. He stated that the Barber City Neighborhood was not a uniformed area, that there are no sidewalks and many of the houses in the neighborhood vary from the code. He described his property as having a detached 2 car garage with a bungalow above constructed of 2x6 and 2x10 full size redwood timbers; a garage with 2 roll up electric doors and safety switches; hard wired electric smoke alarms both in the garage and the room above; a channel steel and concrete staircase; lighting in the front and back of the property with stair lighting as well. He referred to a letter in the building permit file written by the last owner, the Garrett's, stating that they installed the fixtures and the water and the power supply and they also stated that they insulated the walls for sound. He also stated that a permitted 200 amp power supply provides ample electrical power for both buildings, and that records show, there are two 3" drains leaving the property. He concluded by stating, "Combined with the landscaping that we have done to this home and the landscaping done by the previous owners, and the pool that we intend to install after this issue is resolved, we will have a hell of a home, we will have the American dream, done properly with the proper permission."

Debra Carrillo stated that they purchased this home with the unit above the garage and they had saved their whole life for this home. She also stated they wanted to make extra room since the house is smaller than 1,000 square feet.

Mathew Peterson believed that the proposed improvements on the property with the requested variances will enhance the property. In addition, he believed that the Carrillo's use of the property was in accordance with the original use. He stated that he did not believe they intended to rent the second dwelling unit, only use it as personal living space; therefore, he did not anticipate parking impacts upon the neighborhood.

Tom Callahan believed the proposed design of the room addition was compatible with the existing dwelling. Also, since the building was built in 1953, Mr. Callahan felt that the existing nonconforming setbacks should extend to the new room addition as it would enhance the value of the property and the neighborhood. Furthermore, he did not think altering the existing hobby room to a second dwelling unit would have additional impacts upon the neighborhood.

Jacqueline Berger stated that many of the properties in the neighborhood have additional structures in the rear, so the subject property was not any different from the surrounding properties.

Chairman Turro asked if there is anyone else to speak in favor. There was no one else in favor. He called up the opposition to speak.

The following spoke in opposition to approve the project: John Wilson of 14221 Alta Street, Westminster; Ron Fleming of 14231 Graham Street, Huntington Beach; Willa Garcia of 14216 Graham Street, Westminster; Beverly Rosen of 14222 Graham Street, Westminster; Arthur Rosen of 14222 Graham Street, Westminster; In addition, Mrs. Beverly Rosen brought a written letter of opposition from Rodney K. Burns and Linda K. Hodak-Burns of 5512 Harold Place, Huntington Beach.

Mr. Wilson stated he has two objections to granting this variance; the first is that this is a single residential zoned neighborhood and granting a variance would make this property become a residential multi unit dwelling. The second is that the City would be officially approving major alterations to this property that were done illegally, in defiance of City zoning and without City permits and inspections. He further stated that the illegal work was done by the previous

owner Mike Garrett just before he sold the property to Mike Carrillo, and that he understands this is a subject of a lawsuit. He further described the nature of the lawsuit and understands and sympathizes with the Carrillos but does not agree that the City should approve the variances. Mr. Wilson continued on and stated the owners have late night parties that disturb his sleep and he has to cope with excessive noise in the morning hours. He believes that the illegal work must be removed and the room returned to its former permitted condition. He hopes the City will make sure the restoration is permanent.

Mr. Fleming was concerned that the approval requested variances for the proposed second dwelling unit would set a unfavorable precedence for the neighborhood.

Ms. Garcia was concerned the second dwelling unit would affect on-street parking and create additional noise and traffic.

Mrs. Rosen stated that there is no driveway so the Carrillos have no off street parking unless they park in the garage which there would lead to more traffic and noise. She believes it is important to remove the existing bathroom.

Mrs. Rosen felt that a second dwelling unit would exacerbate traffic and noise. She also expressed that even if the Carrillos did not rent the unit the next owner might. Furthermore, she felt it was important to remove all improvements within the hobby room that would make it habitable.

Responding to Mrs. Rosen, Chairman Turro acknowledged that the Commissioners received the letter in opposition she delivered from her neighbors: Rodney K. Burns and Linda K. Hodak-Burns of 5512 Harold Place, Huntington Beach.

Mr. Rosen stated multiple-family dwelling units often create additional traffic, which would negatively affect parking conditions in the neighborhood. He expressed that Mr. Carrillo's problem is a result of the realtor's misrepresentation of the property's conditions and felt Mr. Carrillo should resolve such a matter in court not with the City.

Chairman Turro asked if there was anyone else in opposition. There was nobody else to speak in opposition. Chairman Turro called up those for rebuttal.

In rebuttal, Michael Carrillo stated his driveway can accommodate two cars and that the building was permitted in 1953. He also stated that having two bathrooms on the property was a factor in the purchase of the house. The planned on living in the space above the garage when working on the front house, and now realizes that the City will not allow them to stay in the space above the garage. He doesn't believe parking is an issue, nor have they caused parking problems.

Tom Callahan clarified that the second dwelling unit will not be rented and was existing when the Carrillos purchased the property. He also emphasized that the Carrillos are only requesting to have the same setback as the existing dwelling. Furthermore, he expressed that parking was not an issue in the neighborhood.

Chairman Turro asked Mr. Callahan how far he lives from the subject property. He answered that he lives approximately 10 miles away in Huntington Beach.

Mr. Bashmakian interjected to clarify the issues before the Commission. He explained that rental of the second dwelling unit was not under review. The Commission was responsible for reviewing the requested variances. Also, Mr. Bashmakian clarified that parking was a concern of staff because the applicant requested a variance from the required parking for a second dwelling unit.

Chairman Turro asked if there is anyone else that spoke in favor that would like to speak in rebuttal. There were no additional people that wished to speak in rebuttal. Chairman Turro closed the Public Hearing.

Commissioner Krippner stated the project should be denied since the existing un-permitted improvements on the property were constructed after the City's incorporation. Any new improvements must comply with the City's current standards.

Commissioner Chow clarified that the structure was permitted in 1953, but as a non-habitable garage. She asked Mr. Carrillo if the unit was permitted at the time of the inspection.

Mr. Carrillo referred to the pages of his inspection he submitted for review. He emphasized that all the people were present at the inspection and nobody informed his of the structures status. Commissioner Chow stated that his problem was a legal one. Mr. Carrillo concurred.

Chairman Turro stated that the rental unit is not the issue here but he does not believe in a rental unit in an R1 zoned neighborhood. He then made a statement to the Carrillos, "I can understand that you would want to add to the main house and stay in the garage, but I think you should follow all the codes that are in effect at this time."

Chairman Turro inquired if Code Enforcement is taking care of the concerns with the plumbing.

Mr. Bashmakian explained that Code Enforcement's role in this process and that it is currently on hold pending the Planning Commission decision and possible appeals. Should the variances be approved by the Planning Commission then Code Enforcement's action is no longer needed.

Chairman Turro asked Mr. Carrillo how many people live at his house currently. Mr. Carrillo stated just his wife, himself, and his dog. Chairman Turro stated that he would like them to get more space, but within the building codes of the City

Commissioner Chow stated that we are dealing with 2 things. One is that they are asking for to change the garage into a permitted living space and two they want to add another 115 square-feet onto the front their house.

Mr. Bashmakian clarified that a conversion to a second dwelling unit would be permitted by right, and not subject to Planning Commission approval, through a normal plan check process as long as the property that meets the criteria in the code. What is before you is the variances to allow them to have the second unit as it varies from the criteria required by the code.

Christian Bettenhausen explained that a variance is granting a special waiver of the code because of certain special circumstances applicable to the property. And so in this case there are a couple variances that you would have to approve in order to allow this as a second unit. One of them is that the lot needs to be 7,000 square feet so you have to say in this situation there would be special circumstances that warrant the fact that a 5,400 and some odd square foot lot would be ok.

Chairman Turro stated he does not want to set a precedence here with small lots with all these extra units on it.

Commissioner Chow stated that the applicants should follow the recommendation of the Code Enforcement officers as it is for their own safety. She favored the variance to expand the front of the house but without encroaching too far in the front.

Mr. Bashmakian stated the Commission can take whatever route they want but he would like to suggest tackling each variance separately as it might be easier for them. If you deny the lot size then really everything else is denied by default. You could take lot size variance then they can't have the second unit so it does not matter if it is attached or detached.

Commissioner Krippner stated that he sympathized with Mr. Carrillo, but unfortunately we have to act for the good of the residents in the City.

Commissioner Chow stated she also sympathized with Mr. Carrillo as he was mis-represented. But they can not make an exception in approving all these variances because it is not safe and not fair to the neighbors.

Commissioner Contreras stated he too would like to express his sympathy as the situation is unfortunate, but something happened somewhere and he does not see a remedy unless we change the codes for everyone in the whole entire City.

Christian Bettenhausen suggested the Commission have two separate motions, one related to the living room expansion and the other relating to the second unit.

Chairman Turro stated that he was not in favor of granting variances for the second dwelling unit but favored the variance to allow the expansion of the living room, and to allow the bathroom in the space above the garage but no kitchen.

Commissioner Krippner indicated that he was not in favor of a bathroom.

Chairman Turro stated that he thinks the bathroom should be left as a consideration to Mr. Carrillo's medical problem.

Commissioner Krippner stated that he didn't agree about leaving the bathroom in the unit.

Commissioner Contreras stated that it sounds to him that we are in alignment to not approve it as a residential unit. However, he

would be in favor of preserving its initial intent when it was bought which was to keep it as a hobby and or storage area.

Christian Bettenhausen stated that it is permitted as a hobby and storage room, so that is allowed and it can stay there.

Commissioner Contreras stated he would like to make a motion.

Christian Bettenhausen confirmed that the motion would be to deny the application by the applicant with respect to all the variances he is requesting related to permitting the second unit over the garage. This would include a variance from minimum lot size, a variance to allow the second unit to be detached from the main house, a variance not to provide a single garage space for a second unit, and a variance to maintain a 5 ft rear and side setback.

Commissioner Contreras stated it would be a vote to deny but not to tear down the existing unit but to preserve its original intent.

Commissioner Krippner stated that all plumbing and shower and drainage should be reversed. Commissioner Contreras stated that if someone wants to amend the motion, by all means. But my motion is to deny it as living quarters and that it remain as a hobby/recreation/storage unit only.

Commissioner Contreras stated that he wanted to clarify his motion, which is to deny it as a living residential unit and keep the unit for its original intent as a recreational/hobby/storage unit.

Motion

Commissioner Contreras moved that the Planning Commission deny the second dwelling unit, seconded by Commissioner Krippner.

Christian Bettenhausen wanted to clarify again that the issue before them are the variances. The issue is to deny the variances.

Chairman Turro inquired if it included taking out all the plumbing.

Christian Bettenhausen explained that is not a decision for the Planning Commission. If it is not allowed as a habitable space, whatever a recreational room allows is what they are entitled to.

Commissioner Chow stated that is up to Code Enforcement to decide and enforce.

Mr. Bashmakian confirmed that what is before you is only the variances.

Christian Bettenhausen stated that by definition they are already allowed to have it as a recreational space so it doesn't really need to be addressed as it is grandfathered in.

Commissioner Contreras confirmed then Code Enforcement will decide if they can have a restroom, a fire stove or whatever.

Christian Bettenhausen clarified that a yes vote is to deny the variances on the secondary dwelling unit.

The motion to deny the variances on the secondary unit carried 4-0-1, Commissioner Lam absent.

Christian Bettenhausen clarified that the next variance request is that the front part of the house which requires a 4 foot side yard setback and in order to do the addition it would encroach into that setback.

Mr. Patterson stated that the room addition to the existing house will encroach 2 ½ feet into the required 4 foot side yard set back. He stated the existing line of the house is only 1 ½ feet from the property line and the current requirement is 4 feet.

Commissioner Krippner inquired that if we continue the line down 1 ½ foot variance that already exists. Mr. Patterson confirmed that as proposed by the applicant the addition would continue the existing legal non-conforming side setback.

Chairman Turro asked what is next to the location where the addition will be placed. Mr. Patterson explained that it is a house owned by Mr. Wilson who spoke earlier in the evening. He then confirmed with Mr. Patterson that the extension will be about 12 feet and there would be no windows on the side up against Mr. Wilson's property.

Commissioner Krippner and Commissioner Contreras favored granting this variance.

Commissioner Krippner inquired if Mr. Wilson had any windows on the side of the house affected by the new addition. Mr. Carrillo responded indicating that Mr. Wilson had no windows on that side of the house.

Mr. Bashmakian clarified the picture on the monitor and explained the nature of the room addition and the size.

Mr. Bashmakian explained a recommended condition was aimed to improve the design of the addition.

The Commissioners discussed the proposed design and indicated that the proposed design will keep the overall look of the house and they didn't think it should be a problem.

Motion

Commissioner Chow made a motion to approve the variance request for the room addition to the front of the house as requested by the applicant, seconded by Commissioner Contreras. The motion carried 4-0-1, Commissioner Lam absent.

Chairman Turro stated that he had received letter after letter in regards to noise at this address and wanted to remind the applicants to be considerate to their neighbors.

Commissioner Chow commented if there is excessive noise, the neighbors should call the police to complain.

Reports

- A. Case 2007-06 Design Review – Level 1. Location: 15502 Beach Boulevard (Assessor's Parcel Number 107-721-01). The applicant is requesting that the Planning Commission waive the Code requirement for the underground placement of utilities for an approved temporary soil vapor extraction remediation system to be located at a former automobile service station site.

STAFF RECOMMENDATION: That the Planning Commission waive the requirement to place utilities underground for Case No 2007-06.

Mr. Michael Patterson made a brief presentation on the applicant's request to waive the code requirement to place utilities underground for a temporary soil vapor extraction remediation system.

Commissioner Krippner and Chairman Turro questioned Mr. Patterson on the location of the site. Mr. Patterson confirmed the site location and that the site is located on a list prepared by the State of California that requires them to place a remediation system at that location.

Mr. Patterson stated that a similar request was granted in November 2006 to Case No 2006-88, located at 8481 Westminster Boulevard.

Chairman Turro stated that he remembered the other case and he didn't see that they shouldn't do the same for this case; he saw nothing wrong with this case.

Motion

Commissioner Chow made a motion to waive the requirement to place the utilities underground for Case No. 2007-06 and Commissioner Contreras seconded the motion. Commissioner asked if there was anymore discussion, there was none. The motion carried 4-0-1 Commissioner Lam was absent.

B. High Volume of Planning Commission Cases.

Staff requests that the Planning Commission consider options to address upcoming potentially heavy agendas as there are 20 projects the Commission may consider over the next four meetings.

STAFF RECOMMENDATION: Planning staff recommends that the Planning Commission discuss (including but not limited to) the options listed in the staff report and direct staff to pursue an appropriate option.

Mr. Bashmakian gave a brief report to the Planning Commission to consider alternate meeting dates due to a heavy volume of cases that would be coming to the Planning commission in the next few meetings. He listed several options to the Planning Commission for a decision.

After discussing various options, the commission decided to hold one meeting on Monday, May 14th at 5:30 p.m. and one on Thursday, May 24th at 6:30 p.m.

The commission further discussed conduct of meetings particularly on ways to allow healthy debates yet move through cases in a timely manner.

Administrative Approvals

None

Items and Comments from the

Planning Commission: None

Comments:
Planning Manager None

City Attorney Mr. Bettenhausen reminded the Commissioners about the public hearing process and briefly explored the best practice of conducting public hearings.

Chairman Turro stated the Commission was told by another City Attorney to close the public hearing before asking questions. Commissioner Krippner concurred.

Christian Bettenhausen explained that a Public hearing is a time where people have an opportunity to come forward and state whatever facts they think are relevant. The hearing allows two sides to present their facts with an opportunity for rebuttal. After taking public comments, the Commission takes the matter under deliberation. At this point, the Commission is not supposed to take new facts. If so, an opportunity to respond to the fact must be given to the other side.

A decision was made between the Planning Commissioners present, Turro, Krippner, Chow, and Contreras to continue running the public hearings as they had been and previously advised to do so.

Reporting on AB 1234 Commissioner Chow and Commissioner Contreras reported on the League of California Cities 2007 Planners Institute seminar they attended from March 21, 2007 to March 23, 2007. They stated that they found some of the sessions interesting and helpful and a great overview. Additionally, Commissioner Contreras extended a thank you to Mr. Bashmakian for showing them around at the conference.

Adjournment The meeting was adjourned at 11:20 p.m.

Respectfully submitted,

Shelley Dolney
Special Service Clerk