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Monterey, California

# Planning Commission Final Annotated Agenda

Regular Meeting  
February 13, 2007

**Afternoon Session Only  
4:00 p.m. – 5:30 p.m.**

## Planning Commission

Leon Garden, Chair  
Willard McCrone, Vice-Chair  
Paul W. Davis  
Toynette Bryant  
Luis Osorio  
David Stocker  
Ralph Widmar

### **CALL TO ORDER**

Chair Garden called the meeting to order at 4:00 P.M.

### **ROLL CALL**

**Commissioners Present:** Bryant, Davis, Garden, McCrone, Osorio (Arrived 4:02 p.m.), Stocker, Widmar

**Commissioners Absent:** None

**Staff Present:** Senior Planner Rick Marvin, Senior Planner Chip Rerig, Senior Associate Planner Todd Bennett, Recording Secretary Terry Lebda

### **APPROVAL OF MINUTES**

January 23, 2007

**ACTION:** Continued to March 13, 2007. 6-0-1 (Absent Osorio).

MOTION:

On a motion by Commissioner Widmar, seconded by Commissioner Stocker, the Annotated Agenda of January 23, 2007 was continued to March 13, 2007. The motion passed by the following vote:

AYES:	6	COMMISSIONERS:	Bryant, Davis, Garden, McCrone, Stocker, Widmar
NOES:	0	COMMISSIONERS:	None
ABSENT:	1	COMMISSIONERS:	Osorio

### **PUBLIC COMMENTS**

PUBLIC COMMENTS allows the public to speak for a maximum of three minutes on any subject, which is not on the agenda. Any person or group desiring to bring an item to the attention of the Planning Commission may do so by addressing the Commission during Public Comments or by addressing a letter of explanation to: Planning Division, City Hall, Monterey CA 93940. The appropriate staff person will contact the sender concerning the details. Note: Public Comments are taken during the afternoon session and continued at the evening session. Individuals may choose to speak once for up to three minutes at either session, but not both.

None.

### **REVIEW OF AFTERNOON AGENDA AND CONSENT ITEMS**

REVIEW OF AGENDA AND CONSENT ITEMS are to review those items recommended for approval on consent, or recommended to be continued, tabled or withdrawn, etc. CONSENT ITEMS consists of those items which are routine and for which a staff recommendation has been prepared. A member of the public or a Commissioner may request that an item recommended for approval on consent be heard on the regular agenda for further discussion.

## **PUBLIC HEARINGS**

PUBLIC HEARINGS are held to receive public comment on certain items pending Planning Commission action. You are welcome to offer your comments after being recognized by the Chair. The Chair may limit the time allocated to each speaker.

**1. 34 Cuesta Vista Drive; Variance 07-033; Applicant Glenn E. Warner Architect; Owner Andrea Mennenga; R-1-20 Zoning District; Exempt from CEQA Requirements.**

Request for approval of a front yard setback Variance (20' standard, 5'-1" requested) to allow the reconstruction of a voluntarily demolished Accessory Structure (garage).

**ACTION: Approved Front Yard Setback Variance as submitted based on staff Findings and Conditions. 6-0-1 (Abstain-Widmar)-0.**

Staff Presentation/Commissioners Questions:

Commissioner Widmar recused himself due to the conflict of living within 500 feet of this property.

Todd Bennett presented the staff report and answered Commissioners' questions.

Applicant:

Glenn Warner, Architect, said that this is a unique and problematic site as far as usable building and yard space, they are placing the garage and front portion of the house in the original location, and that they agree with the proposed Conditions of Approval.

Public Comments:

Tom McCann, speaking as representative of the Monterey Vista Neighborhood Association, said that the Association submitted a letter approving the variance as it is exactly the kind of building they would like to see in the neighborhood. He said that he has talked with other neighbors and no one is opposed to the variance being granted. Liz Russell said that she is a neighbor and has talked to the owner agreeing that it looks fine. Jean Clemons said she lives across the street from the property and what the owner has planned is nothing more than a great improvement to the neighborhood. Andrea Mennenga thanked all for their support of her project.

Commissioner Comments:

Mr. Marvin answered Commissioner Osorio's question regarding the Condition requiring a demolition application filed after the fact stating that the process allows that staff to review demolitions for historic impacts and the Building Division issue permits to satisfy State safety requirements. Commissioner Stocker moved to approve the front yard setback Variance as recommended by staff's Findings and Conditions of Approval. He said if this was a bare, new site, the variance would probably not be granted, but this is an example of an approval with no impacts. He said that it is refreshing to here positive feedback about a project from a Neighborhood Association. Commissioner Osorio seconded the motion.

MOTION:

On a motion by Commissioner Stocker, seconded by Commissioner Osorio, it was moved to approve the Front Yard Setback Variance as submitted based on staff Findings and Conditions. The motion passed by the following vote:

AYES:	6	COMMISSIONERS:	Bryant, Davis, Garden, McCrone, Osorio, Stocker
NOES:	0	COMMISSIONERS:	None
ABSTAIN:	1	COMMISSIONERS:	Widmar
ABSENT:	0	COMMISSIONERS:	None

**2. 1200 Del Monte Center (P.F. Chang's China Bistro); Appeal 07-034 of ARC Application 07-009; Appellant/Applicant Fancher Development (Nina Raey); Owner American Assets Real Estate Group (Jerry Gammieri); C-2-SC Zoning District; Exempt from CEQA Requirements.**

Appeal of Architectural Review Commission Condition of Approval that prohibits exterior installation of a horse statue.

**ACTION: Denied the appeal and upheld the Architectural Review Commission condition prohibiting the exterior installation of a horse statue. 6-1 (Noes-Widmar) -0.**

Staff Presentation/Commissioners Questions:

Chip Rerig presented the staff report and answered Commissioners' questions.

Applicant:

Bill Fancher of Fancher Development said that there is a disagreement on what is a sign and what is art. He said that their horse statue is a \$40,000 museum quality casting of a 1400 BC artifact reproduced specially for P.F. Chang's. He said inside the restaurant other artifacts, none of which are signs, as the artifacts have no advertising text. Rather, he said, they send a message to customers that they are willing to spend money to provide quality service. He indicated that there are locations where they do not display horses because of space constraints. They presented a Power Point presentation of the proposed landscape and floor plans, the north and west elevations, and horse statue photos. Chris Sullivan, Vice President of American Assets, said that they are seeking appropriate tenants for Del Monte Center and that P.F. Chang's is a premier restaurant. He said they want to work within the City requirements and they want tenants to have their identity. He said the horse cannot be seen from Munras Avenue and that it is an icon not signage.

Public Comments:

Rick Heuer, resident of Alta Mesa Neighborhood, said that this is not signage but art that will upgrade the Center.

Commissioner Comments:

Commissioner Stocker said that Del Monte Center is a unique environment in Monterey and the applicants and owners should look carefully at their signage policies and what the City wants in signage. He said that one must go onto private property to see this horse and that parking and traffic on the property are not the concern of the City. Commissioner Bryant said that the building and restaurant is already being identified in three ways; and, while the horse statue is beautiful, it is not necessary to have a horse for people to enter the restaurant. She said she cannot find anything to go against ARC's decision and she agrees that Del Monte Center should come back to the City with tenant advertising proposals for the whole center. Mr. Rerig answered Commissioner Osorio's question regarding the horse aesthetically fitting into the center saying that the statue is located away from the business entrance. He said that ARC did not support it because of potential precedent setting and their determination that this proposal is going down the wrong path. Commissioner McCrone said that the horse is a nice piece but it is Advertising Art as defined by the Architectural Review Committee Resolution and he is concerned with the lighting of the horse. He said he agrees with pursuing the development of a coherent plan for signage guidelines within the Center, which is unique property. He said he cannot overrule the ARC or say they have abused their discretion.

Commissioner Widmar disagreed saying that this is not advertising art and that the horse is not that far away from the entrance or a disconnect from the business. He said he views the horse as an improvement and diverts the eye from gazing at the trash compactor in the parking lot. However, he said he does agree with the lighting concern. Commissioner Davis said that he supports the ARC decision. Chair Garden said that he cannot find that ARC erred with the existing policy. He said he agrees that Del Monte Center should review their sign policy and that he would like to hear from them of what their image might include and if their program would want to include statuary. Commissioner McCrone moved to deny the appeal. Commissioner Davis seconded the motion. Commissioner Osorio said that he will support the motion agreeing that it is precedent setting and it detracts from what the center is trying to do architecturally. Commissioner Widmar said that he will not support the motion, that this is not a special privilege because it is similar to that enjoyed by Whole Foods who displays products outside.

MOTION:

On a motion by Commissioner McCrone, seconded by Commissioner Davis, it was moved to deny the appeal and uphold the Architectural Review Commission condition prohibiting the exterior installation of a horse statue. The motion passed by the following vote:

AYES:	6	COMMISSIONERS:	Bryant, Davis, Garden, McCrone, Osorio, Stocker,
NOES:	1	COMMISSIONERS:	Widmar
ABSENT:	0	COMMISSIONERS:	None

**3. 1200 Del Monte Center (P.F. Chang's China Bistro); Use Permit 07-010; Applicant Fancher Development (Nina Raey); Owner Del Monte Center/American Assets Real Estate Group; C-2-SC Zoning District; Exempt from CEQA Requirements.**

Request for approval of a Use Permit to allow the operation of a full-service restaurant with outdoor dining after 10:00 p.m. Subject site is adjacent to Residential Zoning Districts. Proposed hours of operation are Sundays through Thursdays, 11:00 a.m. to 11:00 p.m., and Fridays and Saturdays, 11:00 a.m. to 12:00 midnight.

**ACTION: Approved the Use Permit allowing the restaurant to extend operating hours until 12:00 midnight on Friday and Saturday nights and 11:00 p.m. Sunday through Thursday nights, with the exception that the outdoor patio close at 10:00 p.m., with condition of a six-month trial period after which the Use Permit shall be re-opened and submitted to the Planning Commission for further review. 4-3 (Noes-Bryant, Davis, Stocker) -0.**

Staff Presentation/Commissioners Questions:

Rick Marvin presented the staff report and answered Commissioners' questions. (1454)

Applicant:

Bill Fancher of Fancher Development said that there is no place to eat late here in Monterey and that 10:00 p.m. is too early to close. He said that P.F. Chang's is an upscale restaurant that is always full of customers, there is no drunken crowd and they want to operate reasonably to support hotel guests and movie goers. To answer Commissioners' questions, he said they do not allow customers into their establishment after their close time, staff stays about one hour after the last customer leaves and they do not have special events such as weddings. He said they do not want to have to do sound readings because if no one is complaining that should be enough; they have no problem with coming back in six months; nor with employees leaving out of the south gate.

Public Comments:

Rick Heuer said that there are errors in the staff report regarding the restaurant square footage and parking ratio and that an accurate amount of parking spaces are needed for this project. He said that when California Pizza Kitchen came in, there was a motion made to put moratorium on any application that increased parking until the theater was completed and then after one year of its opening, there was to be a review to determine the parking impacts. He said that there are no buildings between this applicant and adjacent neighbors, there are noise impacts from the cars, and there is no enforcement to ensure customers and staff will exit to the south. Mike Dawson, President of Alta Mesa Neighborhood Association, poled the Board and all, with one abstention, objected to extended operating hours and parking in the north parking lot should be prohibited. He referred to comments in a letter submitted by Wade Fearnside on February 12 regarding parking impacts and the need for a continuous sound study. Wade Fearnside said that with the theater and the third anchor, Del Monte Center will become a 24-hour facility and businesses adjacent to residential neighborhoods should be limited. He said that between 1:00-5:00 a.m. there is noise created from carpet cleaning, generators, power washers, trucks pulling in and grease pumping trucks and even though noise impacts are spelled out in the Use Permit, they have not been checked or enforced. He said he has tried to work with the shopping center security, but to no avail. In answer to Commissioner Stocker's question, he said that there are very few problems with El Indio or CPK, but it is the noise that happens afterwards like cleaning crews and that sound travels depending on cloud cover and atmosphere. Michael Yuri said that he is strongly against outdoor music because he constantly hears music coming from Mucky Ducks but it goes nowhere when he has made calls to the police. Chris Sullivan with

American Assets, in answer to a comment regarding the ratio of parking to square footage of the restaurant, said that Marie Calendar was 9,500 square feet and P.F. Chang's is 2,000 square feet less in size. He said he met this morning with Mike Dawson who made good points about the noise and that he concurs with his concerns. He said that noise is a problem, a lot of these issues are infrastructural with noises that happen after hours, and they do have rules and regulations that can be enforce.

Commissioner Comments:

Mr. Marvin answered questions saying that there is a recommended condition that there be no amplified music on the outside patio. Regarding the ratio of parking to restaurants, he said it is correct that restaurants in the food courts are not classified as restaurant and entertainment uses if they are less than 2,500 square feet in size and that there are letters to the previous owner that document that standard. He said that the shopping center can do a better job to alleviate the current noise and the employers can mandate that their staff uses the south driveway. He said that it is important to monitor sound levels to be sure sound is not exceeding the 55 decibel standard. He said that CPK operates until 11:00 and El Indio operated to 11:00 on the weekends. Commissioner Stocker said that he lives in the neighborhood and that he does not hear noise from specific restaurant operations. He said that it is important to separate restaurant noise from infrastructure noise because it is the shopping center's responsibility to resolve those other noise issues. He said that he is in favor of allowing the restaurant to stay open to 11:00 p.m. on a trial basis and to limit outdoor operations to 10:00 p.m. Commissioner Osorio said that there is a land use conflict except for the significant buffer of 600 feet between the Center and houses. He said that he would be in favor of operating until 12:00 midnight with a trial period; and if it does not work, then their hours can be reduced. He said he agrees that the perception of noise is from other uses not just this building, which is located further away from the residential areas than CPK. He said he would also like to encourage cars exiting at the south side.

Commissioner Bryant moved to approve staff's recommendation to allow business hours to extend to no later than 11:00 p.m., with the exception that the outdoor patio closing at 10:00 p.m. After the six-month review, if all is well, then the use permit is to be reopened and extending the hours to 12:00 midnight can be requested. Commissioner Davis seconded the motion and suggested that Del Monte Center work with the neighborhood to mitigate noise generation and exit alternatives so that at the six-month review it can be determined whether the applied mitigations are successful. Commissioner McCrone said that he will not support the motion. Rather, he is in favor of hours extended to 12:00 midnight with outdoor seating closing at 10:00 p.m., and a probationary period as well as sound monitoring. Commissioner Widmar said that most noise comes from other types of maintenance, this restaurant is not opening until perhaps August, and it will be a year before looking at this matter again. He encouraged Del Monte Center to work with the neighborhood to work out the current noise problems. Chair Garden said that he would not support the motion and would only consider extending the hours on Friday and Saturday nights.

MOTION:

On a motion by Commissioner Bryant, seconded by Commissioner Davis, it was moved to approve the Use Permit allowing the restaurant to extend operating hours until 11:00 p.m., seven (7) nights per week, with exception that the outdoor patio close at 10:00 p.m., with condition of a six-month trial period after which the Use Permit shall be re-opened and submitted to the Planning Commission for further review. The motion failed by the following vote:

AYES:	3	COMMISSIONERS:	Bryant, Davis, Stocker
NOES:	4	COMMISSIONERS:	Garden, McCrone, Osorio, Widmar
ABSENT:	0	COMMISSIONERS:	None

Commissioner Widmar moved to allow P.F. Chang's to stay open Friday and Saturday nights until 12:00 midnight on a trial bases for six (6) months and to remain open until 11:00 p.m. the rest of the week, but that the outdoor patio be closed at 10:00 p.m. every night. He encouraged Del Monte Center to work with the neighborhood to establish a 24-hour sound monitoring program and to work with vendors and service providers to be sure existing conditions on site are being honored. Commissioner McCrone seconded the motion.

**MOTION:**

On a motion by Commissioner Widmar, seconded by Commissioner McCrone, it was moved to approve the Use Permit allowing the restaurant to extend operating hours until 12:00 midnight on Friday and Saturday nights and 11:00 p.m. Sunday through Thursday nights, with the exception that the outdoor patio close at 10:00 p.m., with condition of a six-month trial period after which the Use Permit shall be re-opened and submitted to the Planning Commission for further review. The motion passed by the following vote:

AYES:	4	COMMISSIONERS:	Garden, McCrone, Osorio, Widmar
NOES:	3	COMMISSIONERS:	Bryant, Davis, Stocker
ABSENT:	0	COMMISSIONERS:	None

**COMMISSION COMMENTS**

Commissioners may ask a question for clarification, make a brief announcement or make a brief report on his or her activities. In addition, the Commission may provide a referral to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any City matter, or direct staff to place a request to agendize a matter of business on a future agenda (G.C. 54954.2).

**4. Response to Commissioners' Comments at January 23, 2007 meeting. Report received. There were no new comments.**

**PLANNING DIVISION UPDATES**

This report supplies information on activities or announcements and may request clarification or direction regarding scheduling of Commission meetings and study sessions.

**5. Planning Division Updates. Report received.**

- Mr. Marvin said that the City Council approved a 45-day condominium moratorium after which they will have another hearing to determine if the moratorium should be extended, lifted or approval of Ordinance changes. To assist the City Council, at the March 13 Planning Commission Meeting, staff anticipates review of a comprehensive list of issues and proposed changes to the Ordinance with recommendations to City Council.
- Planning Commission concurred that the February 27, 2007 meeting will be cancelled to allow staff time to work on Condominium Conversions, Parking Adjustment Ordinance Amendments and Mansionization.
- Chair Garden said that at the February 12 Mayor's Meeting luncheon, the topic addressed was the City Council's decision on the moratorium condominium conversion.
- Commissioner McCrone and possibly Commissioner Osorio said that they are interested in attending the San Diego Planner's Institute in March.

**ADJOURNMENT**

**There being no further business, the meeting adjourned at 5:53 P.M.**

APPROVED:

ATTEST:

\_\_\_\_\_  
Leon Garden, Chair

\_\_\_\_\_  
Richard S. Marvin, Senior Planner

Respectfully Submitted, Terry Lebda  
Recording Secretary  
Planning Commission