



Planning Commission Final Annotated Agenda

Regular Meeting
April 8, 2008

Planning Commission

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

Council Chamber
Few Memorial Hall of Records
Monterey, California

Afternoon Only
4:00 p.m. – 6:00 p.m.

CALL TO ORDER

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

ROLL CALL

Commissioners Present: Bryant, Davis, Garden, McCrone, Osorio, Stocker, Widmar

Commissioners Absent: None

Staff Present: Deputy City Manager-Plans and Public Works Bill Reichmuth, Principal Planner Kimberly Cole, Principal Planner Chip Rerig, City Forester Robert Reid, Recording Secretary Terry Lebda

APPROVAL OF MINUTES

March 25, 2008

ACTION: Approved as submitted. 6-0-1 (Abstain-Osorio) -0.

MOTION:

On a motion by Commissioner Davis, seconded by Commissioner Garden, the Annotated Agenda of March 25, 2008 was approved as submitted. The motion passed by the following vote:

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

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CONSENT ITEMS are to review those items recommended for approval on consent, or recommended to be continued, tabled or withdrawn, etc.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. 14 Stratford Place, Appeal 08-068 of Application 08-037; Appellant/Owner Yong and Jae Kim; PC Zoning District; Exempt from CEQA Requirements.

Appeal of the Architectural Review Committee's decision denying removal of three (3) Monterey Pines.

Staff Presentation/Commissioners Questions:

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

Appellant:

Mr. Yong Kim appealed to the Planning Commission to allow the removal of three additional Monterey Pine Trees because there is a risk of damage to his house and injury to the occupants. He said that the removal of the trees will have little affect on neighbors because of growing young trees contributing to the beauty of the area and that the Bradford report indicates that trees are unsafe in high winds even if not diseased. He said that during recent high winds a tree fell into their home and could have injured occupants. Mr. Kim said that that incident has created anxiety health problems for his wife and if there are any mitigation measures to approve the removal of trees that he is willing to cooperate with City authorities.

Public Comments:

Arthur Pasquinelli, President of Skyline Forest Association, said that the Forester was fair and professional and that the Architectural Review Committee meeting was a well handled and fair hearing; but he asked, where do we draw the line between the trees and the peace of mind of neighbors and citizens? He said that they urge the Planning Commission to vote in favor of the applicant and his appeal.

Commissioner Comments:

Commissioner Bryant said that she visited the site and she does not believe ARC erred with their decision. However, she said that this is a different circumstance and because of young trees growing on the site she would consider mitigation measures such as tree replacements to grant the appeal, but findings would need to be made to allow the three trees to be removed. To answer Commissioner Garden's question, Mr. Reid said that Monterey Pine trees work as a unit with intertwining root masses to shelter and protect themselves which makes for a healthy forest that is safer than trees standing alone. He said that a number of replacement trees would have to be considered if the subject trees are removed but a recommendation could not be made until after a review of that case. Commissioner Widmar said that he has experienced and understands this distressing situation. He said to remove three more trees to give peace of mind will not make a difference because winds are unpredictable as to which way a tree may fall. He said that he does not know if cutting the trees down will make things better or worse and that Findings need to be made to support the appeal. Commissioner Davis said that he, too, saw the young trees growing and does not believe that the removal of the three trees will impact the neighboring area and when someone has gone to such lengths to see a doctor regarding this matter this is the finding for granting the appeal. He said that the City Forester does an incredible job and he respects his decisions. But based upon the evidence presented by the applicant and Findings to the negative for Ordinance Section 37-10 3.a. and 3.b. and to the positive for 3.c., he moved to grant the appeal for the removal of three trees. The applicant is also to work with the City Forester to look at opportunities for tree replacements on the site. Commissioner Bryant seconded the motion.

Commissioner Stocker said that he will not support the motion because there are many trees that could fall and hit homes because we live in a forest and even healthy trees can fall in a storm. Commissioner Osorio said, with all due respect to the appellant, that he cannot support motion. He said that once there is a decision to buy a house in this city, the decision is also made to live with natural conditions such as wind and rain. He said that any tree can fall down and every property owner has anxiety when winds and rain return each year. Chair McCrone said that he will support the motion and said that he does not find these trees any more significant than

other trees, but there are different considerations. Commissioner Garden said that he will not support the motion due to the facts presented by the Arborist and Forester. He said the only way to protect falling trees is to remove all trees, so where do you stop. He said he understands the anxiety of winds blowing through the trees, but he does not lie sleepless at night thinking of trees falling.

MOTION:

On a motion by Commissioner Davis, seconded by Commissioner Bryant, it was moved to grant the appeal of the removal of three Monterey Pine Trees based upon the evidence presented by the applicant and Findings to the negative for Ordinance Section 37-10 3.a. and 3.b. and to the positive for 3.c. The applicant is also to work with the City Forester to look at opportunities for tree replacements on the site. The motion failed by the following vote:

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

Commissioner Stocker moved to uphold the Architectural Review Committee's decision to deny removal of the three Monterey Pine Trees. Commissioner Garden seconded the motion.

MOTION:

On a motion by Commissioner Stocker, seconded by Commissioner Garden, it was moved to uphold the Architectural Review Committee's decision to deny removal of the three Monterey Pine Trees. The motion passed by the following vote:

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

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

Conditional requirement that at the end of the six-month trial period, the Use Permit shall be re-opened and submitted to the Planning Commission for further review of noise levels occurring after 10:00 p.m.

ACTION: Adopted staffs' recommendation to accept the monitoring report and Findings for Decision to amend Conditions of Approval 3 and 5 to continue monitoring for another six months so that Del Monte Center can determine the cause of the noise and propose sound attenuation if necessary. 7-0-0

Staff Presentation/Commissioners Questions:

Kim Cole presented the staff report and answered Commissioners' questions.

Applicant:

David Campo, Operating Partner of PF Change's Bistro, said that the conditions and expectations are spelled out clearly, they are responsible for monitoring their operating hours and the behavior of employees. He said that staff is adhering to the implemented rules and they are monitored on a day to day and shift by shift bases. He said that they have no intent to extend their current operating hours. To answer Commissioners' questions, Mr. Campo said that the restaurant opens to prepare for the day at 7:30 a.m. and that delivery trucks arrive after that time. He said that the outdoor seating is open weather permitting, but that it is not choice seating due to Monterey's microclimate.

Peggy Wimberly, Del Monte Center General Manager, said that the Monterey Disposal Service agreement is to

not enter the Alta Mesa side of their property before 7:00 a.m.; the security guard closes the gates to the Alta Mesa as agreed and they monitor the traffic, specifically deliveries. She said that hood-cleaning services for PF Chang's are monthly and California Pizza are quarterly and scheduled after 10:00 p.m. because they cannot be done during working hours, but they are both cleaned on the same night. She said that Wade Fernside has communicated to them that he is affected by this noise and Del Monte Center has agreed to accommodate him by reserving a hotel room for the night if he requests. She said that they have made great efforts to be sure that our restaurant operations are not disturbing anyone in the area. She said that the decibel levels could be due to traffic or even a bird in the area at that time of noise monitoring and that the most productive measure they can take to eliminate noise at the Center is to have a person on site between 10:00 p.m. to 7:00 a.m. She said that they are willing to conduct another noise study to determine what other factors contribute to the noise levels, but they do not know what other measures to take. In answer to Commissioner Garden's question, she said that the theater and restaurants stay open until 11:00 p.m. but retailers do not stay open that late.

Public Comments:

Mike Dawson, President of the Alta Mesa Neighborhood Association, said that the City has a 10:00 p.m. closing ordinance when businesses are located adjacent to residential zones. He said that the sound monitoring test should be conducted for a nine-month period through the busiest times of year—summer break and Christmas. He said that there have been incidents in March such as paving at 6:00 a.m., demolition at Macy's at 2:00 a.m., and tree trimming before 7:00 a.m. He suggested that a sound wall be installed; security patrol should be listening with their radios turned off; there should be a monthly meeting with Del Monte Center management regarding noise issues; the theater sign be removed; bus traffic after 10:00 p.m. should be banned; and, the noise ordinance should be adhered to. Ms. Wimberly said that she has been calling Mr. Dawson weekly and has not heard of any issues, and that she apologizes for the isolated incidents. She said they are doing their very best to keep the traffic down and it is now probably better than it has ever been. She said that this is a shopping center and businesses need to operate and she does not see that the noise issues or disturbances have anything to do with PF Chang's nor should they be penalized for other issues. She said that they would be happy to meet with the Alta Mesa Neighborhood Association, but the nine-month noise monitoring will not get them any different results. She said that the Center is busier in summer but businesses close and 9:00 p.m. with the exception of the theater and restaurants, and that the theater sign on the north entrance was installed at the request of the City.

Commissioner Comments:

In answer to Commissioner Osorio's question, Ms. Cole said that the noise standard is only adjacent to the residential area. Mr. Reichmuth added that the essence of Condition 3 is finding the source of the noise whether PF Chang's or some other source between 10:00 p.m. and 11:00 p.m. Commissioner Stocker said that construction should not be occurring outside of the operation hours and equipment should not be unloaded prior to 7:00 a.m. and hood cleaning should not be in the middle of the night. He said he does not agree that the restaurant should be closed prior to 11:00 p.m. and isolated circumstances can be controlled or changed by Del Monte Center. He said he lives in the area and he hears cars squealing around the parking lot, but he also hears it in the neighborhood and on Munras Avenue. He said that Center related disturbances should be considered within the master plan and that the vitality of the shopping center is a huge value to the city. Commissioner Stocker moved to adopt staffs' recommendation to accept the monitoring report and staffs' Findings for Decision and amend Conditions of Approval 3 and 5 to continue monitoring for another six months so that Del Monte Center can determine the cause of the noise and propose sound attenuation if necessary. Commissioner Widmar seconded the motion. He said that 55 decibels is the same noise value as having a conversation with someone and the noise issue cannot fall solely on PF Change's. He said the right thing to do is to give PF Change's another six-month review and for Del Monte Center to find the noises and work with the neighborhood. Commissioner Garden said that he will support the motion. He said he is concerned with the testimony and reports but that he believes PF Chang's have satisfied all conditions and the responsibility remains with Del Monte Center to pinpoint what the noise is and to work with the neighborhood to mitigate them. Commissioner Bryant said that the next six-moth study should be done in a different manner and more comprehensively to determine the noise level and cause as noted in the condition.

MOTION:

On a motion by Commissioner Stocker, seconded by Commissioner Widmar, it was moved to adopt staffs' recommendation to accept the monitoring report and Findings for Decision, and amend Conditions of Approval 3 and 5 to continue monitoring for another six months so that Del Monte Center can determine the cause of the noise and propose sound attenuation if necessary. The motion passed by the following vote:

AYES: 7 COMMISSIONERS: Bryant, Davis, Garden, McCrone, Osorio, Stocker, Widmar
NOES: 0 COMMISSIONERS: None
ABSENT: 0 COMMISSIONERS: None

Amended Conditions of Approval:

3. **(Revised) Planning Division Condition.** That the operating hours are extended to no later than 11:00 p.m. on Fridays and Saturdays and until 10:00 p.m. on Sunday through Thursday, including the restriction of the outdoor patio dining to 10:00 p.m., and granted for ***an additional six month trial period (April 8, 2008 to October 8, 2008)***. ~~six-month trial period only and that at the end of the six-month trial, which shall begin on the date of restaurant occupancy,~~ ***At the end of this trial period***, the Use Permit shall be re-opened and submitted to the Planning Commission for further review. During the trial period, Del Monte Center management shall field investigate noise levels on multiple occasions at the residential property line to determine the noise level occurring after 10:00 p.m. ***and the cause of the noise***. The Del Monte Center management shall submit the findings of these investigations to the Planning Division for consideration at the time the Use Permit is re-opened. The maximum noise level after 10:00 p.m. allowed by Ordinance is 55 dBA at the residential property line. Upon re-opening of the Use Permit, the Planning Commission, with proper findings, may extend the closing time to 12:00 Midnight, leave it at 11:00 p.m., revise or add conditions, or deny the Use and limit the business to a 10:00 p.m. closing time.

5. **(Revised) Planning Division Condition.** ***The restaurant management shall continue to implement the management plan outlined in the March 19, 2008 letter from P.F. Chang's China Bistro. As recommended, the following measures shall be implemented: A.) Employees are required to enter and leave through the glass doors near the bar. Full uniform in and full uniform out is required. B.) Employees are required to park down the hill in the "C" lot located at the northwest corner. C.) Employees shall continue to be educated to not linger when leaving and use the buddy system to walk to their car. Employees shall exit as quietly as possible and if driving or accepting a ride shall exit through the south entrance to reduce impacts on the residential neighborhood.*** ~~That the restaurant management shall put in place procedures and practices to direct all late night employees to use the south Del Monte Center entrance drive when leaving the business after 10:00 p.m. That the restaurant management shall submit these procedures and practices to the Planning Division for review and approval prior to occupancy. A report evaluating the effectiveness of these procedures and practices shall be prepared by the restaurant management for submittal to the Planning Commission at the end of the six-month trial period.~~

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 agendaize a matter of business on a future agenda (G.C. 54954.2).

3. Response to Commissioners' Comments at March 25, 2008 meeting.

- Commissioner Garden said that he recently attended the Planners Institute in Sacramento and although it is good information for new Planning Commissioners, he always comes back inspired. He attended a session on eliminating greenhouse gas emissions and reducing emissions within local municipalities. He said California mandates developing greenhouse emissions and how to eliminate them. He suggested that due to the lack of planners perhaps the Commissioners could schedule time to become more educated in this subject matter.

- In answer to Commissioner Bryant's inquiry about the status of the Valero site, Mr. Rerig said that the environmental company that regulates Exxon has permission to remove the tanks, staff has been provided a draft footprint for the land development, and they are finalizing negotiations with onsite water. The second phase is for the master leaseholder to remove tanks and demolish the building. He said they are looking for progress within 30 to 60 days but there have been concerns raised regarding parking and circulation.
- Commissioner Osorio asked if it would be beneficial for TAMC to give a presentation to the Planning Commission regarding the proposed rapid bus corridor and Monterey branch line that was mentioned in their 2007 annual report? Mr. Rerig said that this would be appropriate, but not until after City Council takes issue on the ½ cent sales tax at their next meeting and the TAMC impact fee.
- Commissioner Osorio said that he, too, attended the Planners Institute and attended sessions on how to run a Planning Commission meeting, an update on form base codes that other jurisdictions have adopted, and an update on ethics. He said it was interesting to listen to questions from other Commissioners on how to run meetings; and as a result, he believes that this Commission runs meetings very well.
- Commissioner Widmar said that he attended the City of Monterey Employee Appreciation Breakfast and that he was pleased to always be invited and it is fun to see how the city holds together as a city family as well as being inspired to see how committed the staff is.
- Commissioner Stocker said that there are too many condominium 'for sale signs' in his neighborhood. Mr. Rerig said that this is an ongoing code enforcement issue and staff is at a point to cite them.
- Chair McCrone said that he has received a letter from the City Clerk's Office regarding the Downtown Design Guidelines and the action taken at the April 1 City Council Meeting. He said he has never received a letter such as this before and asked for instructions what to do with it. Ms. Cole said that there is nothing he needs to do with the letter and that staff will take lead on the Council's recommendations.

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.

4. Planning Division Updates. Report received and reviewed.

- Staff reported that the April 22, 2008 Planning Commission Meeting will be afternoon only and the Commissioners concurred that there is no need for a field trip for that meeting.

ADJOURNMENT

There being no further business, the meeting adjourned at 6:35 P.M.

APPROVED:

ATTEST:

Planning Commission Chair Bill McCrone

Principal Planner Kimberly Cole, AICP

Respectfully Submitted, Terry Lebda
Recording Secretary
Planning Commission