

**CITY OF SOUTH EL MONTE
PLANNING COMMISSION OFFICIAL MINUTES
TUESDAY, JUNE 16, 2020
THIS PLANNING COMMISSION MEETING IS BY TELECONFERENCE ONLY**

*****SPECIAL NOTICE REGARDING COVID-19*****

On March 17, 2020, Governor Newsom issued Executive Order N-29-20 in response to the COVID-19 pandemic, which authorizes the Local Legislative body to hold public meetings via teleconferencing and waives all requirements of the Brown Act requiring the physical presence of Planning Commissioners, staff, or the public as a condition of participation in or quorum for a public meeting.

Members of the public will have access to listen to and participate in the meeting by calling-in at the information below. Teleconference participation shall be available to the public at the following USA Toll-Free number, 888-204-5987, Access Code: 9671457

1. CALL TO ORDER

Chairperson calls meeting to order at 6:07 P.M.

2. ROLL CALL

COMMISSIONERS PRESENT: Chairperson Rudy Bojorquez, Vice-Chairperson Larry Rodriguez, Ruby Rose Yepez, Jeff Ortiz and Leo Barrera.

Also Present via teleconference: (Assistant City Attorney) Christy Lopez of Aleshire & Wynder, LLP, (Public Works Director) Rene Salas, (Planning Assistant) Ian McAleese, (Planning Commission Secretary) Angie Hernandez

3. FLAG SALUTE

Commissioner, Ruby Yepez led the flag salute.

4. APPROVAL OF AGENDA

A motion was made by Commissioner Yepez and seconded by Commissioner Rodriguez and carried (5-0) to approve the agenda as-is.

Vote: Approval of Agenda
Ayes: Bojorquez, Barrera, Ortiz, Rodriguez, Yepez
Nays: None
Absent: None
Abstain: None
Action: Approved

5. PUBLIC COMMENT

Chairperson Bojorquez requested any person wishing to address the Planning Commission on any items not on the agenda, or any other matter, is invited to do so at this time. Pursuant to the Brown Act, the Commission cannot discuss or take action on items not on the agenda. Matters brought before the Commission that are not on the agenda may be, at the Commissions' discretion, be referred to staff or placed on the next agenda.

No public comment was noted.

6. CONSENT CALENDAR

6.a. Minutes for June 16, 2020

A motion was made by Commissioner Ortiz and seconded by Commissioner Rodriguez and carried (5-0) to approve Consent Calendar (Minutes for June 16, 2020)

Vote: Approving Consent Calendar – Minutes for June 16, 2020
Ayes: Bojorquez, Ortiz, Yopez, Barrera and Rodriguez
Nays: None
Absent: None
Abstain: None
Action: Approved

7. PUBLIC HEARINGS

7.a. Consideration of Resolution No. 20-03 approving a Conditional Use Permit (CUP) (No. 20-03) to allow for a Type 41 License, on-sale of beer and wine in conjunction with a bona fide eating establishment (“Tacos El Chaparrito”) at 9611 Garvey Ave Unit # 105, South El Monte CA.

Garvey Center located at 9611 Garvey Avenue South El Monte, CA 91733 (“Property”) was originally built in 1987 and totals 33,208 square feet of commercial space consisting of over 30 units. The Property currently consists of a variety of retail stores ranging from salons and travel agencies to restaurants and a pet shop. The use in question is a restaurant located at #105 on the Property, and has been established within the City since 2004, and recently relocated to the Property in September of 2019.

The Applicant would like to enhance the restaurant by providing beer and wine (ABC License TYPE 41) as a secondary use to the primary restaurant use. The on-sale license will allow the restaurant’s customers to purchase beer or wine in conjunction with their meal. Conditions #6, #17, and #19 restrict the sale of beer and wine to patrons that order food and this sale of beer and wine is not to exceed the sale of food. Beer and wine will be kept only in a staff service area, and will not be sold at a bar where patrons can sit and drink. The Applicant is not proposing to provide any live entertainment of any type, such as karaoke, DJ entertainment or pool/billiard tables and Conditions #7, #8, and #36 do not allow these uses without a modification to this CUP.

The restaurant will be open seven days a week from 8:00 a.m. to 10:00 p.m. The Applicant utilizes approximately six employees working in two shifts consisting of eight hours to work the restaurant.

RECOMMENDED ACTION: Staff recommends that the Planning Commission adopt Resolution No. 20-03, approving Conditional Use Permit (No. 20-03) for the proposed use at 9611 Garvey Avenue #105, South El Monte CA 91733.

Below are comments that were noted during the public hearing of this item:

1. Question by: Commissioner Barrera to staff, Condition #6 refers to the quarterly gross sales report of beer and wines shall not exceed the gross sales of food during the same period, and my question refers to Who tracks that information? How does the City ensure this condition is being met? Response by: Assistant Planner, ABC handles the review of these quarterly reports. Also at any time if we receive any complaints or have any reason to question the activities at this location, any staff member, peace officer, planning commissioner can review these reports at any time.

2. Question by: Commissioner Barrera to staff, Based on Condition #17, Will there be a security guard on staff? Response by: Assistant Planner, No the applicant did not propose any security guard staff as part of their plan. The applicant will be on the line to answer any additional questions if you'd like to ask them directly.

3. Question by: Commissioner Barrera to staff, Have there been any Sheriff's complaints or Code Violations in or around this area recently? Response by: Assistant Planner, I know there have been in the past over the last year due to dumping, but I don't recall any complaints or violations recently reported.

4. Question by: Commissioner Ortiz to staff, Have you had any response from the Public Notice that went out? Response by: Planning Assistant, No there have not been any responses received before the meeting. Although, we still have the opportunity for public comments, but no responses have been received.

5. Question by: Commissioner Yopez to staff, There was a food truck associated with the business, Can you please clarify? Also, if there is association with the food truck what is the protocol in avoiding alcohol sales from the food truck and maintaining the alcohol sales only to the restaurant? Response by: Assistant Planner, the food truck was the original business within the City. They shouldn't have any relationship with the food truck. This CUP is strictly for the restaurant, the unit #105 to sell alcohol. There shouldn't be any alcohol sales being conducted from the food truck at any point. Any of these activities is a violation of the conditions imposed. Commissioner Yopez continued: Do we know if the food truck will continue to operate in conjunction with the restaurant? Assistant Planner responded, that I am not aware of. I don't know if the owner plans to continue to operate the food truck or where he plans on parking it. The applicant is here on the line to answer your questions.

6. Question by: Commissioner Ortiz to staff, Is there a way we can find out from the applicant if he plans to use the food truck at the same time the restaurant operates? I've seen it done before, and I 'm just curious to hear his operation plan. Response by, Assistant Planner, they haven't indicated they would be operating the food truck at the same time in the parking lot. It would be appropriate for the Commission to ask the applicant what his operation plans are with the food truck.

7. Chairperson Rudy Bojorquez asked staff, Do you know how many beer & wine licenses are within the proximity of this location? Assistant Planner

responded, there are several restaurants at this location but none of these locations have an ABC license. Do any of these locations have authorization for entertainment? Assistant Planner responded, no none of these locations are authorized to have any kind of entertainment.

8. The Applicant's Representative: Luis Rodriguez (Cityhall Advisors Group), made the following statement: I'm here to represent Mr. Rojas on this CUP No. 20-03 at 9611 Garvey Ave Unit #105. I've gone over the conditions with Mr. Rojas and he understand and accepts all the conditions. One thing he'd like to bring up is if he can request to revise his operating hours on Fridays and Saturdays to close at midnight. Based on Condition #5, the operating hours are stated as 8:00am to 10:00pm seven days a week. Is that something we can address today? Assistant Planner responded, It would be up to the commission to allow the revision of the operating hours. The Assistant City Attorney confirmed the request: You would like to modify the operating hours on Friday and Saturday to midnight, and Sundays would resume closing hours at 10:00pm, is that correct? Applicant's representative replied, yes that is correct. We'll let the Commission know. Applicant's representative included, he would like to address the question regarding the food truck in the parking lot. Yes, he still intends to utilize and operate the food truck. He understands the requirements of not being able to sell alcohol from the food truck. The alcohol sales would only be generated from the restaurant.

9. Commissioner Yopez asked the applicant, What are the hours of the food truck? Applicant answered, from 6:00pm to midnight daily. And up to 1:00am on Fridays and Saturdays.

10. Commissioner Barrera asked the applicant: Will you provide access to the restrooms inside the unit to the patrons from the food truck? Applicant answered, Yes the restrooms will be available to the patrons from the food truck with direction from the staff inside the food truck and will only have access to the restroom. No one will be allowed to enter the restaurant except to use the restroom.

11. Commissioner Rodriguez asked the applicant: How will you control the sales of alcohol from leaving the restaurant? Applicant answered, only the seated patrons will be served alcohol. There will be no alcohol sales to those who are not seated. The patrons will not be allowed to take their alcohol with them, only with the exception of soft drinks.

12. Commissioner Ortiz made a comment to the Commissioners, Will the Commission address the applicant's request to extend their operating hours? Chairperson Rudy Bojorquez responded, yes we will address during our discussion session after the public comment.

13. Commissioner Barrera addressed the Commission: I would like to include a condition to have the applicant come back in either six month to one year before the commission for a review.

14. Chairperson Rudy Bojorquez addressed the Commission: Yes, I agree. And I would like to include as part of the review, a Sherriff's report and any code violations are included.

15. Assistant City Attorney stated, she had some suggestions on language to use to include as conditions with regards to time, as well as the commission's other requests as well. Chairperson Rudy Bojorquez agreed and stated the topic should be discussed as well. He addressed the commission to discuss the

applicant's request to extend his operating hours on Friday and Saturday to close at midnight.

16. Commissioner Ortiz directed a question to city staff, How many other businesses in South El Monte are able to stay open to twelve o'clock? Is that a norm? Assistant Planner responded, it depends on the business, usually it's for restaurants. I believe it was KRUDOS the restaurant that came before this commission to request their operating hours to extend with a closing time of twelve o'clock on either Thursday through Sunday or Friday through Sunday. They also serve beer & wine with a later closing time. This is the only most recent establishment with an extended closing time.

17. Commissioner Yopez, agreed with Commissioner Barrera's statement to have the applicant come back in six to twelve months before the commission, especially if the commission decides to grant the extended hours.

18. Chairperson Rudy Bojorquez wanted to clarify the following: The applicant's extended hours is something the commission can approve and include as a condition for this Conditional Use Permit? Assistant City Planner responded, Yes, the commission can decide to include the approved hours of operation as a condition or if the commission chooses, you can address the extended operating hours at the same time when the applicant comes back before the commission in either the six month or twelve month review. If there are no incidents to report at that time, the commission could agree to modify the operating hours condition.

19. Chairperson Bojorquez added, my only concern is that, this is a new applicant. And he will be operating the food truck simultaneously with the restaurant, I would like to see how this operation does without the extended hours. My concern is mostly with those patrons trying to take their alcohol outside of the restaurant and loiter around the parking lot and the food truck. I propose we leave the operating hours as-is, we can address the operating hours in six months when they return for a review. If there are any issues reported in the Sheriff's or Code reports we can address the hours of operation at that time.

20. For clarity purposes the City Attorney asked the commission to confirm the Commission's intent as follows: At this time the commission will not address the condition extending the operating hours. Where the operating hours will remain as-is with closing time of 10:00pm seven days a week. The Commission does choose to add another condition that will require the applicant to return in a six month period as part of a review of the business operation process, Correct?

The following condition was added as Condition # 37: The City shall be entitled to review the conditions of the premises and business operations approved herein in six months from the date of the City's approval.

With no further questions or comments, a motion was made by Commissioner Barrera and seconded by Commissioner Ortiz and carried (5-0) to approve Item # 7.a –recommending that the Planning Commission adopt Resolution No. 20-03, allowing for a type 41 license for on-sale of beer and wine in conjunction with a bona fide eating establishment at 9611 Garvey Ave #105, operating as "Tacos El Chaparrito".

Vote: Approving Item #7.a. Resolution No.20-03

Ayes: Bojorquez, Barrera, Ortiz, Rodriguez and Yopez

Nays: None
Absent: None
Abstain: None
Action: Approved

8. COMMISSIONERS' AGENDA

Commissioner Yepez commented about a stay cool workshop that she will be participating in, and invited Commissioners to participate. Chairperson Rudy Bojorquez added a comment to the commissioners, Please join or listen in the City Council meetings as they have informational items that pertain to our approved projects here- just a friendly reminder.

9. STAFF ITEMS

Planner's Report – No items to report.
Secretary's Report – No items to report.
Director's Report – No items to report.

10. ADJOURNMENT

A motion to adjourn the meeting was made by Commissioner Rodriguez and seconded by Commissioner Yepez and carried (5-0) to adjourn meeting at 6:37 p.m. and reconvene next month on July 21, 2020 at 6:00pm

Vote: Adjourn meeting to July 21, 2020
Ayes: Bojorquez, Barrera, Ortiz, Rodriguez and Yepez
Nays: None
Absent: None
Abstain: None
Action: Approved to adjourn meeting