

**CITY OF SOUTH EL MONTE
PLANNING COMMISSION OFFICIAL MINUTES
TUESDAY, NOVEMBER 19, 2019
CITY HALL COUNCIL CHAMBERS
1415 SANTA ANITA AVE
SOUTH EL MONTE, CALIFORNIA 91733**

1. CALL TO ORDER

Secretary calls meeting to order at 6:01 P.M.

2. ROLL CALL

COMMISSIONERS PRESENT: Chairperson Rudy Bojorquez, Vice-Chairperson Larry Rodriguez, Benjamin Garrett, Jeff Ortiz and Leo Barrera.

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

3. FLAG SALUTE

Commissioner, Benjamin Garrett led the flag salute.

4. APPROVAL OF AGENDA

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

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

5. PUBLIC COMMENT

None.

6. CONSENT CALENDAR

6.a. Minutes of October 15, 2019

A motion was made by Commissioner Rodriguez and seconded by Commissioner Garrett and carried (4-0-1) to approve Consent Calendar Item #F1 (Minutes of October 15, 2019)

Vote: Approving Consent Calendar – Minutes of October 15, 2019
Ayes: Bojorquez, Ortiz, Garrett and Rodriguez
Nays: None
Absent: None
Abstain: Barrera
Action: Approved

7. **NON-PUBLIC HEARINGS**

7.a. **Adoption of Resolution No. 19-17 approving a Time Extension (TX) (No. 19-17) for Conditional Use Permit (CUP) (No. 17-20) to allow for the development of six two-story apartment units with attached garages at 3035 Adelia Avenue.**

The Assistant Planner gave a brief chronological history on this item. He stated how this project originated back in 2018 and was approved by the Planning Commission at that time. He stated the applicant has requested an extension for the CUP that expired in August 2019. He stated this item was pulled from last month's calendar by request for additional review. The fire flow test requested by the Fire Department is pending final approval. The Assistant City Planner followed up by stating the applicant is aiming for January 2020 to pull building permits. He concluded by asking the commission if they had any additional questions.

Below are the comments noted during the hearing of this item:

1. Commissioner Barrera, asked: Is there anything different about this staff report than was originally approved last year? Planning Assistant answered: No, the original approved application has not deviated in any form, this request is strictly for a time extension for their CUP.
2. Commissioner Rodriguez, asked: Is there a reason why this item was tabled from the agenda last month? Planning Assistant answered: It was requested to be brought back to the Commission, the Commission voted to bring this item back for discussion. Do we have the reason why it was brought back? Commissioner Garrett answered: I believe the extension request was to grant more time to the applicant for the fire flow testing to be completed. Do we have a status on that test update? Planning Assistant answered: I'm not sure what the results of the fire flow study were.
3. Commissioner Barrera made the following comment: Just to give you an idea, I work with the water company. The fire flow study is performed by the water company. It's provided by the engineers to meet the requirements of the Fire Department. The test is a study to measure the gallons per minute at "X" number of hours.
4. Commissioner Garret, asked: So for this type of test, Does it typical take several months to years to complete? Commissioner Barrera answered: No, it shouldn't take more than 6 weeks to complete.
5. Commissioner Ortiz stated: Last time I asked, the applicant was at the mercy of their time limits. They didn't really know when they would prepare this test.
6. Chairperson Bojorquez, asked: Has any other information changed since last month's meeting? Assistant Planner answered: No, Staff included more information that was originally submitted with the CUP to help the commission envision the project.

7. Chairperson Bojorquez, commented the following: The lot is about 12,000 sq ft, and the applicant is constructing two buildings, two-story high with 3 units each building. Can you please define the difference between apartment and a townhome? Assistant Planner answered: Apartments are considered rentals. Condos are sold at fair market value. Condos have subdivision of air rights, so they don't own the property below. Traditionally, Townhomes have smaller lots, and so they own the lot the building is on. Will these units have designated private areas or a common area ? Assistant Planner answered: Each unit has its own backyard with a trellis patio and the upstairs is also part of the unit. Due to the fact these are rentals, Is there anything we can do to curb the use of services like AirBNB? My concern is the owners are renting these units out and subleasing the units to services like AirBNB, so is there anything we can do to keep an eye out of this type of activity? Assistant Planner answered: I don't know what the City can do to address this concern, I will address this question to the City Attorney for clarification. City Attorney answered: Were there any CC&R's that the City required for the applicant to supply as a condition of approval? Assistant City Planner answered: No, not as part of this approval, as these are apartments. City Attorney requested a moment to review the conditions, and asked the Commission to continue the discussion.
8. Commissioner Garrett commented the following: From my understanding there seems to be more requirements the City can enforce with Condos versus apartments, because of the CC&R's. Was there any thought into the difference between the two ? Assistant City Planner answered: No, not necessarily. We have the same types of conditions we can imply to any project. The CC&R's usually govern the common area, and the home owner's association would oversee the upkeeping of those areas. The apartments don't have those since there is one sole owner. The conditions placed by the City will be required by the owner to maintain, since he is the only responsible party. We can include conditions that address property maintenance, etc.
9. Commissioner Ortiz, asked: Is that a condition we can ask with the Rental Agreement, of each rental unit to address what is expected-to outline what can and can't be done ? Assistant City Planner answered: I'm not too sure on the rental agreements, since that's something the owner and the tenant would have to discuss themselves. Maybe the owner can define the terms with the tenant, but for the most part, usually the owner is responsible for maintenance and repairs on rental properties.
10. City Attorney made the following comment: I don't see anything in the conditions that will allow for the City to enforce the property owner to prohibit his renters to rent out the units to services like AirBNB. I don't know what the legal parameters are, but the City may have the option of amending its code so that no rental properties can sublease their units, assuming it's allowed by law. Chairperson Bojorquez, asked: Whether it be AirBNB or third-party

services correct? City Attorney answered: That's correct, or any other transient type living situation. That might be a better way to address this concern anyhow, because it can be applied citywide. If the City was interested in doing something like that. Chairperson Bojorquez, asked: Is that something we would ask the staff to continue in order to clarify before we approve this matter? City Attorney answered: That would be a code amendment that would amend your municipal code, which is completely a different process and has nothing to do with this process.

11. Commissioner Barrera made the following comment: We are here to approve a time extension.
12. Commissioner Ortiz, asked: Is there any reason why we should not approve this extension? Assistant City Planner answered: No, there is not. City staff recommends the Commission approve this extension.
13. The Chairperson opened the floor to the public for comments.
14. Councilmember Angel, asked: Was there any kind of landscape conditions imposed? City Attorney answered: Condition #20 states the applicant shall adjust the size of the fence to 6 total feet at the front of the property to conform to the South El Monte Municipal Code. Condition #21 states the applicant plant a landscape barrier on the southern end of the property to help screen noise generated by the commercial properties. The Assistant City Planner interjected by stating: In addition, Condition #5 states the applicant shall develop the property to the proposed plans. The proposed plans included adequate landscaping with ground coverings, trees, shrubs and are required to develop as the plans propose.
15. Hoi Luk, the applicant's representative stated the following: The project requires a CUP due to the lot size. If the lot was a bit bigger, we would build by right. At the time of the application, the applicant provided all the requirements requested by the City, and it was approved. All we are asking for now, is an extension. This is not a revisit of the approval for CUP.
16. Commissioner Garrett asked Mr. Luk: Do you have the results of the fire flow testing, now that we understand who provides the testing? I only mention it because one of the reasons provided to us last month was to grant an extension to allow for the fire flow testing. Mr. Luk answered: The last time I was here, I reported that I was waiting for the results from the Water Company of the fire flow test, and the fire department needed these results to approve the plans. Commissioner Garrett added: The results are usually done in about 6 weeks. How long have you been waiting for these results? Mr. Luk answered: Yes, the results that came in 1 week ago. We are now awaiting approval from the fire department and the rest of the plan checks.
17. Commissioner Rodriguez, asked: How long is this extension good for? Assistant City Planner answered: The extension is good for one year.
18. Mayor Gloria Olmos asked the following: How is the CUP not different from a larger lot ? as the applicant is stating. Assistant City

Planner answered: I believe there is a misunderstanding. The density isn't high enough to develop by right. For example, the 30 units per acre density, you don't need a CUP. You'd be able to apply for the building permit. But I believe this project is at 20ish units per acre density, so a CUP is required. Mayor Gloria Olmos, stated: So it's based off of density and not lot-wise ? Assistant City Planner answered: Yes, that is correct.

19. The Public Works Director made the following comment to Mr. Luk, the applicant's representative: I don't believe your intention is to build units to use services like AirBNB, correct? Mr. Luk answered: In my observation, those services are usually sought out by property owners and not so much by renters. It doesn't make financial sense for a renter to pay for a service when it's not their property. Chairperson Bojorquez made the following comment: The opportunity for renters to make these side deals happens all the time. Where it is easier to make a few \$100 to \$200 a day than to rent it out for the whole month. Mr. Luk answered: Well if that's the case, that's something the City should address. There's not much I can do from the owner's perspective. If you have an ordinance to prohibit AirBNB, then we can conform to the Code. I cannot tell the tenant not to rent out the unit. That's not legal for me to do. Chairperson Bojorquez made the following comment; But you can include a stipulation on your rental agreement and also address sublease. Is there something on your rental application you can include? Mr. Luk answered: I would have to consult with our attorney. I don't think there is anything we can do. I'm sure there is something in writing in the rental agreement to prohibit sublease, but again I would have to talk with our attorney. But if we find out this is going on, we can void the agreement and find a new tenant. So let me ask you this, If my lot was larger, would you still be asking these requirements in my initial application ?
20. Chairperson Bojorquez made the following comment, Before moving forward on this project I'd like to propose to make a Code Amendment to prohibit sublease services like AirBNB and other third-party services from operating in our City. Chairperson Barrera asked: Chair, are you making this part of the conditions? City Attorney answered: Please allow me to clarify, since the Conditional Use Permit has already been approved, if the City was interested in adding an additional condition to limit the use the of the property for subleasing, this would have to be submitted as a CUP modification, which this is not. I don't think that continuing the item would achieve your goal, because it would have to be brought back to the Commission as a CUP modification. The commission has the authority to continue if it so wishes, but let me remind you that the issue we have right now is to extend the conditional use permit, since it will expire and it would prohibit the applicant from constructing under the CUP. So whether or not to extend the CUP is the issue before the Commission. After the meeting, or sometime next week I can look into whether or not the City would be interested

in amending the Code to regulate or prohibit transient housing like AirBNB and the such.

21. Commissioner Rodriguez made the following comment: I understand the CUP was approved years ago, but as we are making all these changes, it would probably be easier to create a modification of the CUP to make these amendments and then tackle the extension of this CUP. Correct me if I'm wrong, I don't think we can make those corrections tonight, other than allowing the extension of the CUP or not? City Attorney answered: Correct, the only issue right now is to approve the extension or not.

With no further questions or comments, Chairperson Bojorquez closed the floor to public comments.

A motion was made by Commissioner Rodriguez and seconded by Commissioner Ortiz and carried (3-1-1) to **APPROVE** Resolution 19-17 approving a Time Extension (TX) (No. 19-17) for Conditional Use Permit (CUP) (No. 17-20) to allow for the development of six two-story apartment units with attached garages at 3035 Adelia Avenue.

Vote: Approving item #7.a. approving Resolution No. 19-17 for Time extension No. 19-17

Ayes: Ortiz, Rodriguez and Barrera

Nays: Garrett

Absent: None

Abstain: Bojorquez

Action: Approved

8. PUBLIC HEARING

- 8a. **Approval of Resolution No. 19-19 requesting that Planning Commission ask the City Council to consider a Zone Text Amendment (No. 19-19), to Chapter 17.15 "Commercial-Residential" zones, to require 20 units per acre minimum for any residential development and designate a portion of the City to require residential development at 50% of the total floor area.**

The Assistant City Planner gave a brief background regarding the zone text amendment. At a regular meeting on January 9, 2018 the City Council approved a General Plan Amendment (GPA 10-001), adopting the final draft of the Housing Element and gave staff direction to submit to HCD for their review and consideration. On January 26, 2018 HCD received a copy of the Housing Element. Shortly thereafter and on April 26, 2018, HCD issued a correction letter to the City, requiring additional information that would bring the City of South El Monte's housing element into compliance with all applicable housing law. Since then staff has been working with a consultant Moore, Iacofano, and Goltsman ("MIG") to complete the corrections. The proposed change is necessary in order to receive a final approval of the Housing Element from HCD. Therefore, staff from the Community Development Department recommends

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that the Planning Commission consider these code amendments and make a recommendation to the City Council that it adopt the proposed change to Section 17.15.030 of the South El Monte Municipal Code establishing a minimum residential density for the C-R zone. This zone change will only affect the CR zone that is designated as 100% residential and will establish a minimum residential density of 20 units per acre for all new residential construction in these zones.

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

1. Question by: Commissioner Barrera, Did you say the density increased from 20 units per acre to 30? Response by: Assistant City Planner, there actually wasn't a minimum density per acre designated in the municipal code, so as part of the State approval, HCD requested we include a minimum density be applied in this zone. We have a maximum density of 35 units per acre if adjacent to R1-Single Family residential zone, maximum of 87 units per acre if it is adjacent to multi-family residential or R3. Or 100 units per acre if it is not adjacent to any zone. The maximum density per acres are established, but the minimum is not addressed.
2. Question by Commissioner Rodriguez, This resolution is solely to be in compliant with State regulations? Response by: Assistant City Planner, Yes, when this gets approved, it will be step one of two zone text amendments needed in order for our Housing Element to comply with State requirements.
3. Chairperson Bojorquez addresses Staff: The only changes proposed by this update is to include a minimum density to the zone, which is the one sentence: "Minimum Residential Density- For developments comprised solely as residential, 20 dwelling units per acre" will be modified/ added ? Response by: Assistant City Planner, Correct. This is the only change happening to this zone.
4. The Chairperson opened the floor to the public for comments.
5. Question by: Mayor Gloria Olmos, I apologize, but can you clarify what part of Durfee this affects? Response by: Assistant City Planner, Durfee Avenue on Peck Road, the Housing project next to the McDonald's. This housing project is zoned "CR- Zone".

With no further questions or comments, Chairperson Bojorquez closed the floor to public comments.

A motion was made by Commissioner Barrera and seconded by Commissioner Ortiz to **APPROVE** Resolution 19-19 requesting that Planning Commission ask the City Council to consider a Zone Text Amendment (No. 19-19), to Chapter 17.15 "Commercial-Residential" zones, to require 20 units per acre minimum for any residential development and designate a portion of the City to require residential development at 50% of the total floor area and carried a vote of (5-0)

Vote: Approving Item #8.a. adopting Resolution No.19-19
Ayes: Bojorquez, Ortiz, Rodriguez, Barrera and Garrett
Nays: None

Absent: None
Abstain: None
Action: Approved

8.b. Approval of Resolution No. 19-14 approving CUP 19-14 to allow the operation of a car rental lot as a secondary use at the existing WANG CAI AUTO CENTER DBA: EAZY CAR RENTAL (Auto Repair Shop) located at 2558 Lee Avenue

The Assistant City Planner gave a brief background on this item. The applicant, Wang Cai Auto Center (“Applicant”), is applying to operate a car rental business and an automotive body/paint shop (“Project”) at 2558 Lee Avenue, South El Monte, California 91733 (“Property”). The Property consists of one parcel having an area of approximately 24,830 square feet (0.57 acres) and two existing buildings measuring approximately 6,000 and 5,000 square feet. The Property is located on the southeast corner of Fern Street and Lee Avenue and is zoned “M” (Manufacturing). The site originally received a business license (without a conditional use permit) for an auto body and paint shop as well as for car sales on May 19, 2009. As such, the proposed conditional use permit addresses both the proposed vehicle rental business and the existing automotive body/paint shop. Conditions to address operating hours, off site parking, floor plan and vehicle storage have been included in the approval.

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

1. Question by: Commissioner Barrera to staff, Is this an existing body shop? Response by: Assistant City Planner, Yes, this is correct. This business has been operating a little over ten years. Can we assure their business is up to code? Response by: Assistant City Planner, Yes, at the time the applicant inquired about their business license and the occupancy certificate was issued, the Building Inspector signed off on all code requirements. In addition, I have spoken with the Code Enforcement Department to confirm if any violations have been noted the last ten years, and the notable incidents are for property maintenance, which is being addressed as a condition for this approval. Have there been any noise complaints in that area? Response by: Assistant City Planner, I have not received any notices or complaints for this property since my time here at the City. Will they also be operating a car rental business? Response by: Assistant City Planner, Yes, this is part of the application. The main purpose of this application was to request the car rental business to provide further service to their customers as they repair their vehicles.
2. Question by: Commissioner Rodriguez to staff, Earlier this year, the Commission approved an auto body paint booth. The concern was the air quality. Is this business being set to the same standards as that paint booth? Response by: Assistant City Planner, Correct. This paint booth has been in operation for over ten years, so they have the permits pulled when they installed the paint booth. Is this facility fenced off? Response by: Assistant City Planner, The applicant can confirm this, but I recall there being a wrought iron fence around the property.
3. The Chairperson opened the floor to the public for comments.

4. Rebecca Lou, the applicant, answered Commissioner Barrera's question: Do you have experience in this type of business? Mrs. Lou answered: In the auto body business or the Car Rental business? Commissioner Barrera replied, in the auto body business? Mrs. Lou answered: Over ten years in the auto body business.
5. Commissioner Rodriguez asked the applicant, Over the years, there have been many reports of vandalism, theft. Have you had any incidents at your location? Response by: Mrs. Lou, We have been at this location for a little over a year now. But since we have been here, we have not had any issues.
6. Question by: Commissioner Ortiz to staff, When you acquired the business you confirmed all the permits and requirements were up to code? Response by: Mrs. Lou, Yes – everything is up to code and up to date.
7. Question by: Chairperson Bojorquez, Is the property currently being used as a rental and you are looking to get the permit now or are you looking to get the permit and then start the car rental business? Response by: Applicant Mrs. Lou, We have applied for the business license for the car rental through the State of California. Now, we are hoping to get the approval from South El Monte so we can operate. So as of right now, you are not operating the car rental business at this location? Mrs. Lou answered: Yes, that is correct, we are not operating the car rental business yet. I did see the hours of operation, but what hours will the car drop off be available? 24 hours? Response by: Applicant, Mrs. Lou, No, the drop off hours are the same as the operating hours. There will be no overnight parking or late drop off. Monday through Friday 8:30am to 5:00pm. All rentals need to be returned by 5:00pm.

With no further questions or comments, Chairperson Bojorquez closed the floor to public comments.

A motion was made by Commissioner Garrett and seconded by Commissioner Ortiz and carried (5-0) to **APPROVE** item # 8b - Resolution No. 19-14 approving CUP 19-14 to allow the operation of a car rental lot as a secondary use at the existing WANG CAI AUTO CENTER DBA: EAZY CAR RENTAL (Auto Repair Shop) located at 2558 Lee Avenue (9314 Fern Street)

Vote:	Approving Item #8b adopting Resolution No.19-14
Ayes:	Bojorquez, Barrera, Ortiz, Rodriguez and Garrett
Nays:	None
Absent:	None
Abstain:	None
Action:	Approved

8.c. Additional Condition Clarification for Conditional Use Permit No. 11-009 for the Property at 9251 Garvey Avenue (Palaces Restaurant)

This item was brought before the Planning Commission two months ago. At that time, the Planning Commission directed staff to add an additional condition to the Modification of CUP 11-009. Due to lack of time and clarification, staff is requesting the Commission open the item to Public Comment and leave it open

to allow for the item to continue to the December 17, 2019 Planning Commission Meeting.

Chairperson Bojorquez opened the floor to public comment.

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

1. Commissioner Barrera asked: Will this item will return in one year or in 6 months? Assistant City Planner answered: The Planning Commission will be able to decide and clarify when and recurring time frames to review this CUP. Also, has code enforcement been back to spot check or shown up unannounced? Assistant City Planner answered: Not at this time. I am unaware of code enforcement spot checking this location. Once we prepare the staff report for next month, we will include an update to address this matter.

A motion was made by Commissioner Barrera and seconded by Commissioner Rodriguez and carried (5-0) to **CONTINUE** item # 8c - Additional Condition Clarification for Conditional Use Permit No. 11-009 for the Property at 9251 Garvey Avenue (Palaces Restaurant) to the December 17, 2019 Planning Commission Meeting.

Vote: Continue Item #8c Clarification of Conditional Use Permit No. 11-009 for 9251 Garvey Avenue (Palaces Restaurant)
Ayes: Bojorquez, Barrera, Ortiz, Rodriguez and Garrett
Nays: None
Absent: None
Abstain: None
Action: Approved to CONTINUE to December 17, 2019

9. COMMISSIONERS' AGENDA

Commissioner Barrera commended city staff for a successful turkey trot 5k event. Commissioner Rodriguez praised the City for the emphasis on youth in their events and acclaimed the City for honoring veterans at the Veteran's memorial event. Commissioner Ortiz applauded the City for a fun and successful event with the Metro 626 Golden Streets event held on October 26. Commissioner Garrett also admired the City for their efforts in putting together the 626 Golden Streets event and the Veterans Day memorial. Chairperson Bojorquez attended the Veterans Day event and also thanked the City for commemorative event, he wished staff and commissioners a safe and Happy Thanksgiving.

STAFF ITEMS

Planner's Report – No items to report.

Secretary's Report – No items to report.

Director's Report – No items to report.

ADJOURNMENT

A motion to adjourn the meeting was made by Commissioner Rodriguez and seconded by Commissioner Ortiz and carried (5-0) to adjourn meeting at 6:59 p.m. and reconvene next month on December 17, 2019 at 6:00pm

Vote: Adjourn meeting to December 17, 2019
Ayes: Bojorquez, Barrera, Ortiz, Rodriguez and Garrett
Nays: None
Absent: None
Abstain: None
Action: Approved to adjourn meeting