Approved as submitted
February 3, 2014

PLANNING COMMISSION | MINUTES

Tuesday, January 21, 2014

A special meeting of the Planning Commission was called to order by Chairperson Elisaldez at 6:00 p.m., in the City Hall Council Chambers, 6615 Passons Boulevard, Pico Rivera, CA.

STAFF PRESENT:
Ben Martinez, Director
Julia Gonzalez, Deputy Director
Scott Nichols, City Attorney

ROLL CALL:

PRESENT: Commissioners Celiz, Elisaldez, Garcia, Martinez, Zermeno

ABSENT: None.

FLAG SALUTE: Led by Commissioner Garcia

APPROVAL OF MINUTES:

January 21, 2014

Motion to approve the minutes was made by Commissioner Martinez and seconded by Commissioner Celiz:

AYES:	Celiz, Elisaldez, Garcia, Martinez, Zermeno
NOES:	None
ABSTAIN:	None
ABSENT:	None

PUBLIC HEARING:

ZONE CODE AMENDMENT NO. 173, AN ORDINANCE AMENDING CHAPTER 18.52 UNDER HOME OCCUPATIONS AND ADDING PROVISIONS FOR COTTAGE FOOD OPERATIONS

Deputy Director Julia Gonzalez presented the staff report.

Deputy Director Gonzalez stated that AB1616 went into effect in January 2013 and

requires that cities approve the preparation and selling of cottage foods in all residential zones. Cottage foods are non-refrigerated foods such as breads, biscuits, and fruit tamales that are considered non-hazardous. She stated that the law was passed in 2012 when the LA Times wrote a story on Mark Stambler, a Loz Feliz resident who was cooking breads from his backyard brick oven. The LA County Department of County Health shut down the operation the next day and Assemblyman Mike Gato became involved and sponsored the bill. The law requires that cottage food operators to register or obtain a permit and take a food preparation course. The law limits the City's land use control to parking, concentration, noise and traffic. Deputy Director Gonzalez stated that the draft ordinance contains a series of standards to help mitigate impacts in residential zones. The standards include hours of operation and delivery, sufficient parking, no waiting outside, an operation needs to be 1,000 feet apart from another operation, outdoor storage is prohibited, onsite advertising is prohibited, onsite dinning is prohibited and tenants must obtain permission of property owners. Deputy Director Gonzalez stated that this is state law and if the ordinance is not adopted, the law would still be in effect.

Chairperson Elisaldez moved to open the public hearing.

Commissioner Garcia asked if residents could have up to ten relatives working at the home.

City Attorney Nichols answered that residents could have family members working at the home based business and one employee.

Commissioner Garcia commented that since the home based business will only be inspected once a year, the operators may switch the quality or type of ingredients in the food from the time of the initial inspection.

Commissioner Zermeno asked if the operator would need to report income taxes and obtain a business license. Commissioner Zermeno also had concerns with drug dealers using the cottage food business as a front to disguise their illegal activities.

Deputy Director Gonzalez responded that operators would have to report their income taxes and obtain a business license.

Commissioner Garcia agreed that the law would allow drug dealers to disguise the business with cars and traffic coming in and out of the home.

Deputy Director Gonzalez clarified that the City could go out to inspect a residence an unlimited amount of times if a complaint is received. The county conducts an annual

inspection.

Commissioner Celiz asked who would go out to conduct the complaint inspections.

Deputy Director Gonzalez responded that if it was an illegal activity complaint that the Sheriff's Department would go out, and if it was a land use or traffic it would be code enforcement.

Commissioner Celiz asked staff to confirm if the City was required to allow these businesses and if the ordinance contains standards specific to the City.

City Attorney Nichols responded that the City must allow these types of businesses if they meet the standards of the City.

Chairperson Elisaldez stated that this is state mandated and the City must attempt to regulate these types of businesses.

Director Martinez stated that the standards contained in the draft ordinance was a good start and after a year or two staff can review the history of the business complaints and possibly amend the ordinance if needed.

Commissioner Martinez asked if the Commission could discuss the issue further at a later date.

Deputy Director Gonzalez responded that the public hearing was the Commission's opportunity to review, discuss and provide a recommendation to the City Council. Deputy Director Gonzalez conducted research of existing ordinances of other major cities and the draft ordinance presented is a compilation of the standards. The state law says staff can include reasonable standards in relation to traffic, spacing, concentration, and noise.

Commissioner Martinez commented that staff may need to amend the ordinance from time to time.

Commissioner Garcia stated that staff should recommend tighter restrictions in regards to inspections. Staff should consider that some people will use the law as an opportunity to conduct illicit activity. Commissioner Garcia also recommended that the operators allow the opportunity to conduct surprise inspections.

Chairperson Elisaldez asked if surprise inspections were allowed.

Commissioner Martinez asked if staff could charge fees for additional inspections.

Deputy Director Gonzalez stated that the law allows one inspection per year for Class B permits and an unlimited amount of inspections based on complaints.

Commissioner Zermeno asked if anyone has applied for the permit.

Deputy Director Gonzalez responded that staff has had two people call and inquire, but no one has actually applied.

Chairperson Elisaldez if the $110 fee is a state mandated fee or if the fee was determined by staff. He also asked if the City could incorporate an additional amount to help support surprise inspections.

City Attorney Nichols responded that under California law, the City cannot have any fees that exceed the cost of providing the service.

Deputy Director Gonzalez stated that a Class A regulation for direct sales, meaning they sell from their home or a farmers market. A Class B permit is for indirect sales, meaning they can sell to a supermarket.

Commissioner Zermeno asked if the City could protest and challenge the law.

City Attorney Nichols responded that the City would have to protest the law through the City Council directly to the state legislature.

Chairperson Elisaldez asked if the City could assess a nuisance or complaint fee.

City Attorney Nichols responded that the City could add a fee, but this type of issue may become a problem with feuding neighbors.

Commissioner Celiz stated that the City needs to be careful with how the ordinance is written as it may lead to lawsuits by residents.

Commissioner Garcia recommended to approve staff's recommendation and to revisit the issue in six months.

Director Martinez clarified that staff would return in six months with a progress report, and based on that report, the Commission may consider further action to address any issues.

City Attorney Nichols read the state law which clarified that one full time employee could be allowed, other than family or a household member. City Attorney Nichols recommended staff make minor text changes to the ordinance in relation to parking and employees.

It was motioned to approve the public hearing with the changes from the City Attorney.

Commissioner Celiz motioned to approve the public hearing with the City Attorney's changes, seconded by Commissioner Garcia.

Motioned carried by the following roll call vote:

AYES:	Commissioners Celiz, Elisaldez, Garcia, Martinez, Zermeno
NOES:	None
ABSTAIN:	None
ABSENT:	None

NEW BUSINESS:

Chairperson Elisaldez asked what was going on at the intersection of Passons and Washington Boulevard.

Director Martinez responded that an underground box culvert was being reconstructed by Southern California Edison.

Commissioner Martinez stated that the lights of the entrance sign at Whittier Boulevard and the San Gabriel River bridge were not working.

Commissioner Martinez also stated that at Whittier and Passons Boulevard there was a portion of the sidewalk and curb missing.

Commissioner Celiz stated that yard sale signs and advertisement signs are posted throughout the City's utility poles.

Commissioner Garcia asked for clarification of a home based business.

Deputy Director Gonzalez stated that it is a type of home office. Manufacturing businesses are not allowed to operate from the home.

PLANNING COMMISSION REPORTS:

PLANNING COMMISSION REPRESENTATIVE TO THE CITY COUNCIL MEETING OF Tuesday, January 14, 2014.

Deputy Director Gonzalez stated that the porte-cochere ordinance was postponed to the next City Council meeting. The City Council requested that staff draft an ordinance that provided a blanket provision that would allow a porte-cochere in all residential properties subject to a front yard setback of 30-40 feet.

There being no further business the Planning Commission meeting was adjourned at 6:51 p.m.

Tommy Elisaldez, Chairperson

ATTEST:

Benjamin A. Martinez, Secretary
Planning Commission
Director of Community and Economic Development