

**MINUTES OF THE CITY OF FONTANA
REGULAR PLANNING COMMISSION MEETING
September 01, 2015
Grover W. Taylor Council Chambers**

CALL TO ORDER/ROLL CALL:

A. 6:00 P.M. Call to Order/Roll Call

A regular meeting of the City of Fontana Planning Commission was held on Tuesday, September 1, 2015, in the Grover W. Taylor Council Chambers, 8353 Sierra Avenue, Fontana, California. Chairperson Cothran called the meeting to order at 6:03 p.m.

Present: Chairperson Cothran, Vice Chairperson Meyer, Secretary Garcia, Commissioner Quiroga, and Commissioner Rowland

Absent: None.

Also Present: Attorney Thomas Rice; Community Development Director James Troyer; Planning Manager Zai AbuBakar; Assistant Planner Dawn Rowe; Associate Planner Catherine Lin; Associate Planner DiTanyon Johnson; Senior Engineer Kathy Raasch; Policing Technician Wendy Ratcliffe; City Clerk Tonia Lewis and Planning Commission Secretary Ysela Aguirre.

INVOCATION/PLEDGE OF ALLEGIANCE:

A. Invocation/Pledge of Allegiance

Following the Invocation given by Vice-Chairperson Meyer, the Pledge of Allegiance was led by Commissioner Quiroga.

PUBLIC COMMUNICATIONS:

A. Public Communications

Alicen Wong, speaking on behalf of Electric Guard Dog, invited the Planning Commissioner on a tour of three facilities, one of which is the subject of an appeal that is scheduled to be heard on October 6, 2015.

Attorney Thomas Rice advised against discussing this matter and suggested Ms. Wong work with staff to schedule a tour.

Manager AbuBakar will work with Ms. Wong and each Commissioner's calendar to schedule a tour.

Chairperson Cothran requested staff schedule the tour, but has some issues with the ordinance.

Michael Pate, Electric Guard Dog, has been working on this amendment for a while to include many of the industrial areas in Fontana. One area that he is really having a problem with right now is the South West Industrial park (SWIP) because there are so many different uses in the SWIP. He understands that the Planning Commissioners cannot comment because of the appeal. His company went in and installed the electric security fence after plans had been submitted to the City; when the final inspection came up and it was discovered that there was a small residence (used as a business that stores other types of vehicles and equipment) to the back of this particular facility. He proposed to staff that he would kill the electricity to the fence next to that residence and only electrify the other parts of the fence. Staff did not think that was very good idea and did not ask, but demanded to take down that piece of fence in the back; even contingent on the appeal. It was very expensive for him and for the Fontana business. He requested the Planning Commission's participation in the tour and future consideration to amend the Code, contingent upon the appeal. He has already had three submittals from businesses in the city that have been denied; there will be more once the ordinance is opened as businesses want to protect their property. Other business, that have not used him, have set up electric security without permits; he is trying to do the right thing and protect the people of Fontana.

CONSENT CALENDAR:

A. Approval of Minutes

Approve the Regular Planning Commission Meeting Minutes of August 18, 2015.

A motion was made by Commissioner Rowland and seconded by Commissioner Quiroga to approve the minutes of the August 18, 2015, Planning Commission Meeting. Motion passed by a vote of 4-0-1 with Secretary Garcia abstaining.

PUBLIC HEARINGS:

A. MCN No. 13-084; CUP No. 15-022 - Chiki Chiki Wings and Sports

Dawn Rowe, Assistant Planner, provided the staff report.

No communication was received by staff in opposition or in favor of this project.

Staff provided a memo at the dais to add additional language to Finding No. 2.

Vice-Chairperson Meyer commended staff on the thorough parking analysis.

Discussion was held on delivery truck parking.

Discussion was held on Condition No. 34 regarding the limiting of alcohol consumption per meal. This condition was added for the percentage of food to alcohol to be balanced. Director Troyer added that the intent of the condition was to only have alcohol drinks ordered with food.

Speaking for the applicant, Alicia Romero agreed to the conditions of approval.

Speaking for the applicant, Richard Ortiz stated that the applicant did not agree with the condition limiting the amount of drinks; she is concerned with this condition. He requested to see conditions for other businesses to compare and if this was a standard; if not, it would not be fair to obligate the applicant to this condition. Her business is hurting and has been opened for some time, she has to go through this process, but this condition is not fair and does not make sense.

Director Troyer asked the applicant if she had agreed to the condition at the Development Advisory Board meeting. Applicant stated that her business was hurting and wanted to do whatever she could.

Chairperson Cothran's concern is that it would turn into a sports bar.

Director Troyer clarified that Condition No. 34 should read that alcohol must be served in conjunction with a meal; Condition No. 34 will be revised.

Applicant agreed to the revised Condition No. 34.

Discussion was held on the parking demand analysis; there is no variance requested.

Discussion was held on what happens to the CUP if this operator vacates the building; the new operator would have to comply with all of the conditions of approval.

The Public Hearing was opened.

Applicant was provided a copy of the memo with the amendment to Finding No. 2.

Discussion was held on having staff bring forward a report for the Planning

Commission's review if there are any alcohol related problems; the conditions can be amended, added or the CUP revoked at that time.

Discussion was held on the surveillance cameras and direct feed capability.

Speaking for the applicant, Richard Ortiz requested information on Condition No. 29 regarding the live video feed.

Policing Technician Ratcliffe stated that the Police Department has a live feed video capability that they did not have before; this has been a standard condition for a couple of months.

Tressy Capps spoke on this being a video she was not expecting. She heard they are not going to make the applicant only sell two drinks and that the Police Department cannot enforce condition No. 34. She has been to this business, it is a small establishment, it's very nice and businesses need to be encouraged in the city, not discouraged. Some of these conditions are pretty shocking. The Police Department is having applicants agree to do something that they don't even know what the cost is going to be. If you are going to require them, then maybe the Police Department should pay for it. This is big brother this is nightmare nanny state and she is really appalled at what she heard tonight. This is shocking and will be quite a video on YouTube; she had no idea this was going on and she is extremely upset; this is ridiculous. The Police Department should not tell people they want a live feed to watch you from the station. That is outrageous. You guys need to think about what you are doing here.

Discussion was held on the live video feed condition. The Police Department is creating a real time crime center that will have a monitoring system. If something happens at a location such as a robbery and the silent alarm is set off, it would activate the live feed. The Police Department would not have the ability to watch the business as they choose. The business or alarm company would have to contact the Police Department to connect to the live feed. It is for the protection of the business and citizens.

Discussion was held on what other business would be required to have the direct live feed surveillance.

Commissioner Quiroga is not comfortable about this surveillance system. He thanked the applicant for investing in the community and in the area they did. He visited the establishment and it is very nice.

Policing Technician Ratcliffe spoke on the advantages of direct live feed surveillance.

Secretary Garcia recommended looking at a policy on direct live feed surveillance and how it would be implemented before conditioning this item

on applicants.

Policing Technician Ratcliffe recommended having the Chief provide a workshop on the Real Time Crime Center.

Condition No. 29 will be revised to remove "direct live feed".

Idilio Sanchez, Chamber of Commerce President, wants to make sure we are open for business. He understands about CUPs, parking variances, and all the conditions; but to him, not only as member of Chamber of Commerce, but as a business owner himself, a live feed of his business is a bit invasive. He has it at his house, but it is only activated when the alarm goes off. He agrees with Policing Technician Ratcliffe that there should be a workshop because it is kind of scary that anyone could just flip the switch and watch what is going on at your business. There is a price that we have to understand and who is going to pay for this. He has been to this business; they are great people with a great business. It is one the nicest looking restaurants on that side of town. We need to help them to get their doors open because we all know as business owners, as the doors don't open the money doesn't come in. He knows the Planning Commission will do the right thing.

Kathy Ponce thinks it was Reagan who said "When you hear the statement, hi, I'm from the government and I'm here to help you. You better run the other way and you better run fast." We're trying to bring great businesses to Fontana. We always talk about wanting to follow our big brother over in Rancho. And now we're going to put this extra added price tag onto small business owners that are the heartland of what America is supposed to be. She was shaking inside; she did not expect this tonight in one way or any way. Police safety is of an utmost concern when you have nine police officers killed in the line of duty in one week; their lives matter, but so does the small business owner. To have on an impulse to be able to look at your business, what's next? The new home builders that come in are going to have to have this to be able to watch what is going on in your house? This is overbearing and overruling, She hopes that there is workshop, she hopes that there is a Planning Commission meeting on this, she hopes that there is a City Council meeting on this because you want something that is going to upset the citizens, let's take this to the streets.

Applicant agreed to the revised Condition No. 29 striking the "video surveillance system shall have the capability for a direct live feed to the police department".

Chairperson Cothran commended the applicant on the work done at the restaurant.

The Public Hearing was closed.

ACTION: Motion was made by Vice-Chairperson Meyer and seconded by Secretary Garcia to: 1) Determine that the project is Categorically Exempt pursuant to Section No. 15301, (Class No. 1, Existing Facility) of the CEQA Guidelines, and direct staff to file a Notice of Exemption; 2) Approve Conditional Use Permit No. 15-022 subject to the attached findings and conditions of approval with the additional changes to Condition, Nos. 29 and 34, and the change to Finding No. 2. Motion passed by a vote of 5-0.

B. Master Case No. 15-050; Conditional Use Permit No. 15-011 - Auto/Vehicle Body Shop

DiTanyon Johnson, Associate Planner, provided the staff report.

No communication was received by staff in opposition to this project.

Discussion was held on the public pay phone condition.

The Public Hearing was opened.

Speaking for the applicant, Cynthia Karim has their main hub on Alder and Valley, but they are outgrowing their location and they need another location.

Discussion was held on changing the hours of operation now so the applicant does not have to return if she chooses to change the hours of operation.

Discussion was held on the hours of operations of adjacent and similar businesses.

Michael Segal, Segal Living Trust, manager of the property, stated that every other business is open on Saturday; and it would be, prudent to give the applicant the option of hours of operation.

Chairperson Cothran commended the applicant on the cleanliness of the facility.

The Public Hearing was closed.

The Public Hearing was re-opened.

The applicant understood the addition of a condition regarding payphones and a change to the hours of operation.

The Public Hearing was closed.

ACTION: Motion was made by Secretary Garcia and seconded by Commissioner Rowland to: 1) Determine that the project is Categorically Exempt pursuant to Section No. 15301, Class No. 1 (Existing Facilities), of

the California Environmental Quality Act; and 2) Approve Conditional Use Permit No. 15-011 with the changes to conditions of approval . Motion passed by a vote of 5-0.

C. Master Case No. 15-002 for the proposed City of Fontana Climate Action Plan

Catherine Lin, Associate Planner, provided the staff report.

Staff provided a correction to the last paragraph of the report regarding the reduction goal.

Discussion was held on the Climate Action Plan (CAP) being voluntary or not.

Discussion was held on being compliant under current building codes.

Director Troyer stated that there is currently no benchmark for being out of compliance; the goal is to avoid each development project having to do their own greenhouse gas analysis and thereby reducing their Environmental Impact Report (EIR) expenses.

Discussion was held on the City being exposed to a lawsuit by not having a Climate Action Plan.

Discussion was held on any costs associated with implementing the CAP.

Consultant Susie Kirschner spoke on the eight measures the City of Fontana chose. The City is already looking at changing outdoor lighting that will have a cost savings in the future; most measures are not under the city's jurisdiction so there would not be an expense.

Discussion was held on the housing element adopted last year.

Discussion was held on energy savings from water reductions versus energy savings from water conveyance.

Discussion was held on the type of community outreach done as part of the CAP.

Discussion was held on who filed the lawsuits and why and what the outcome was of each one.

Discussion was held on what possible expenses the city would incur because of the CAP.

Discussion was held on the city doing more than what is required to be

consistent with neighboring jurisdictions.

Discussion was held on the City already exceeding what the CAP standard is by 20%.

Discussion was held on this being a policy document.

The Public Hearing was opened.

Discussion was held on the calculations of points.

Discussion was held on what other local cities have already adopted a CAP; Loma Linda, Ontario, Chino, Apple Valley, Hesperia, Victorville, Yucaipa, and Redlands.

Discussion was held on who the CAP will affect; new developments. All were aware of tonight's meeting and of the joint workshop.

Discussion was held on any advantages to adopting the CAP now or as part of the General Plan.

Idilio Sanchez, President of the Chamber of Commerce expressed concerns he has been getting from business owners. He requested this item be tabled to a future date to have workshops to educate business owners on the pros and cons.

Discussion was held on what would be accomplished if this item was delayed.

Idilio Sanchez spoke on this being a business killer; but, he does not have enough information on greenhouse gases to comment in a public forum. It needs to be more transparent with business owners and people asking questions.

Discussion was held on the types of questions being asked by business owners.

Discussion was held on what other cities have opted out of a CAP.

Idilio Sanchez requested that we slow down and have a workshop to educate the people and if it is good for the environment; he is getting lots of questions from business owners.

Director Troyer requested Idilio Sanchez not try to answer questions posed to him but instead refer them to the Community Development office.

Discussion was held on the urgency of moving the CAP forward.

Tressy Capps, a member of the public, received a draft document when she went to and found out today it was not the complete Climate Action Plan; what she had was Greenhouse Gas Emissions Screening Tables. She called staff and didn't get called back until this afternoon. She just received a copy of the Climate Action Plan, it is not on the city's website, and it is 100 pages. This item does not need to be rushed. As member of the public, she wishes she had known about outreach BIA workshop, but she did not; she thinks that there are instances when a member of the public might buy a lot and develop a home and maybe they would need information regarding these new standards. We just need more time. She received an email from Tabetha Willmon, Air Resources Board, a copy was provided for the Planning Commission. She asked some specific questions regarding the Climate Action Plan. She asked her if the CAP is mandatory. Ms. Willmon's response was "under AB32 CAPS are not mandatory." That was already established. She asked her how many cities in the state have adopted a CAP. Ms. Willmon's response was "I don't know the exact numbers", but she provided a link where Ms. Capps found that just in the A's alone, three cities do not have a Climate Action Plan – Anaheim, Azusa, and Aliso Viejo; there are 3 cities out of the of 24 that did not do this. We don't need to rush into this; we can take our time and study this. She asked if Fran Pavley's bill passes, with higher standards for reductions, how will that affect existing plans if at all. Ms. Willmon's response was "If it passes, it is going to make the requirements a lot more stringent so we may have to change things anyway". Ms. Capps asked the question regarding Fran Pavley's bill at the workshop and staff did not know the answer – they said it applied to cars only, and that was incorrect. Ms. Willmon indicated "some cities have chosen instead to incorporate them into their General Plan". We are working on our General Plan; we can do the CAP in conjunction with the General Plan and take our time. She doesn't know how many Planning Commissioners have read the 100 pages of the CAP. She just got the email today and hasn't had a chance to open it. She wants to study the 100 pages; she wants to find out what the financial impact is; she thinks as a member of the public, she has that right legally and the Planning Commission has a duty to provide that. She doesn't think we should make decisions based on fear; fear is a lie and we don't make decisions based on fear. As a member of the public, maybe she will sue the city because she is not given time to review this plan and know if it is something that she agrees with or not. She deserves as a citizen of Fontana to just have time to review this and see what it is we are agreeing to do. She appreciates the Planning Commission asking all the questions tonight and thinks they are doing fantastic. She submitted a Records Request and wants the Planning Commission to wait for the response to those seven questions.

Director Troyer responded that he had received her request and he has 10 days to respond.

Kathy Ponce is asking for more time on this plan and multiple workshops; she thinks there was one that was posted on the City Council's agenda. San

Bernardino when they were sued and they do not have a CAP, they have a Sustainability Master Plan and they put it on their city website; they gave residents an opportunity to participate in the project and planning process. They had an attachment/a link where citizens could go in and give their opinion and their input. They had workshops for the citizens. 2010, Berkeley, the most liberal city in the state of California, had citizen input community wide process. Creed was the environmental group that sued Chino, eight out of the eleven complaints were thrown out and they only paid \$215,000 in legal fees. Only seven items are required on a CAP plan and we're 100 pages. This plan needs to be available for public review. This isn't a communist country where we're going to sneak things under the table. Let's give it to the public, let's put it on the city website, let's be able to post it on Facebook or wherever we want to put it so that the community can see it, can read it, know what it's about and have their input and their say at the next Planning Commission or at the City Council meeting; she hopes it doesn't get there. The CAP will hurt future programs and businesses. San Bernardino was sued because they didn't have nearly the developmental codes that we have currently; they basically had none, weren't they ready to go bankrupt. AB32, AB375, now we got AB350 up there ready to pass; that will make our life real fun. Restrictions, restrictions, restrictions. AB32, AB375, AB350, AB this, AB that, CAP Plan this, CAP Plan that. She is asking for a contingency continuance on this plan so that it can be studied, so other cities can be called asked why they are not adopting a CAP plan; what are their reasons. She would like to talk to Rancho, they have one of the simplest CAP programs out there and she'd like to know why. Why are they so simple on everything, including the General Plan. She wants to talk to Azusa, Aliso Viejo, Huntington Beach. She wants to talk to the people that are not adapting a CAP plan and why. She wants to study the lawsuits, and bring them forward. She wants to see if the cities were really hurt that badly and know why if this is not a state requirement is the Attorney General going to sue on something that is not required by the state. She said that they can get rude, Mr. Troyer, and Mr. City Attorney, making smart comments, joking, making little actions that are rude to the citizens of Fontana; and when the video comes out and the citizens see it, she hopes they are upset and they are mad at the way they are getting treated - on the way she is getting treated on their behalf for representing them. She will never give a citizen who has a question Mr. Troyer's number because he is going to tell them what he wants to tell them; she will give them Ken Hunt's number before she gives them Mr. Troyer's. Because we are citizens and we deserve respect, we don't need to be treated rudely up here because we are up here and we are concerned and we're asking for time to do what we have a right to do, which is investigate something that we don't feel is right. She thanked the Planning Commission. She doesn't know if they have had time to read the 100 pages to compare it to other cities, to see that they only have to have seven items on this plan and which seven would be best for us that are not already in the development codes. We need more time, we need time to study this and bring forth issues and concerns. We need time to protect and do what is best for our city.

Matthew Slowik shared insight; there was discussion about lawsuits and AB32, from about 2006-2007 to the present. The city attorney will advise regarding legal matters on this entire subject. He shared and distinguished between the City of San Bernardino lawsuit (that was referenced) and the San Bernardino County lawsuit when he was a staff member at the time. He, along with other staff, had just completed a five year process of updating the County's General Plan; it was taken to the Board of Supervisors two weeks after the signing and adoption of AB32. About two weeks after the Board of Supervisors adopted the County General Plan, which had five years' worth of effort in it and did not address greenhouse gas because the Assembly Bill did not exist until two weeks before the Board's action. Two weeks after the Board's action, then Attorney General, Jerry Brown, showed up in the office announcing that he was filing a lawsuit against the county because greenhouse gas was not addressed in the General Plan. In that circumstance, the issue of the threat of a lawsuit and the immediacy was real because AB32 was just signed. After the lawsuit was filed and the county had to deal with responding to it, the question of the state was what standards are to be used for a global issue that is to be addressed at a local level. It took the state four and a half years to figure out the answer. Yet, the county had to try to respond to a lawsuit immediately addressing the subject. We were the beating stick for the entire state. The reason that is important is because here we are seven and half years later, dealing with a CAP issue. He thanked Commissioner Garcia for asking if we are really pressed because of a lawsuit concern; or are we meeting the conditions and provisions of the standards. It is not a requirement to have a CAP, but as a city, are we meeting what needs to be met. If the answer is yes, than one of the fundamental questions is if there is a need for a CAP. Because if we are already meeting it, what advantage is it. There is potential concern among members of the public, business members and anyone who the provisions of the CAP might be applied because there is a dollar cost associated with every one of these greenhouse gas reduction measures. That is a valid concern for those that say if we don't need a CAP, maybe we don't have to have one. If there are some potential dollars that might be incurred that don't have to be incurred, maybe there is no reason to have a CAP. There is a huge difference between today dealing with this subject versus 2006 when San Bernardino County got blasted over the head by the attorney general; huge difference in time, huge difference in issues. He encouraged a workshop. He shared that greenhouse gas is measured in metric tons.

Consensus was to have a workshop at the next meeting in October.

Chairperson Cothran announced that the Planning Commission will have a workshop in two weeks and everyone is welcome to come then or contact staff at any time if they have any questions.

Discussion was held on the GPAC expected completion date; the last quarter

of 2016.

Idilio Sanchez thanked the Planning Commission and Director Troyer for the exchange; this is what a democracy is about.

ACTION: Motion was made by Vice Chairperson Meyer and seconded by Secretary Garcia to move this item to the October 6, 2015, Planning Commission meeting with a workshop on September 15, 2015. Motion passed by a vote of 5-0

Cothran encouraged everyone to come back to the workshop with any questions they may have.

DIRECTOR COMMUNICATIONS:

A. Director Communications:

Planning Commission reviewed an update of future City Council Agenda items for the September 8, 2015 and September 22, 2015, meetings for the Planning Commission's information; and an update of future Planning Commission items for the September 15, 2015 and October 6, 2015, meetings for the Planning Commission's information.

Discussion was held on a workshop on land use compatibility. Staff will come back with some dates.

Staff will schedule a tour on the appeal project and a workshop on October 6, 2015, regarding land use compatibility.

COMMISSION COMMENTS:

A. Planning Commission Remarks

Secretary Garcia wished everyone a good evening.

Vice Chairperson Meyer wished everyone a good week.

Vice Chairperson Meyer congratulated Chairperson Cothran on special events coming up in his family.

Commissioner Rowland thanked the public for coming forward and voicing their opinions; she is looking forward to the workshop and more information to make an informed decision.

Commissioner Quiroga thanked the community for their comments; this is a community and we need the community's input; it affects the community and everyone who lives here.

Commissioner Quiroga had family visiting from Colombia all summer. He is happy to have Mona out here and loves her very much.

Chairperson Cothran wished his wife a happy 35th wedding anniversary on September 6, 2015. She is a gracious, kind and loving woman and they have a wonderful family together and he appreciates her very much.

Chairperson Cothran appreciates the general public speaking; we may seem contentious, but we appreciate their input. The Commissioners are citizens and community members just like they are with no different rights than they have and he appreciates them.

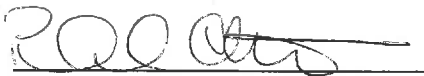
ADJOURNMENT:

By consensus, the Planning Commission adjourned at 8:58 p.m. to the Regular Planning Commission Meeting on Tuesday, September 15, 2015, at 6:00 p.m. in the Grover W. Taylor City Council Chambers located at 8353 Sierra Avenue, Fontana, California.



Ysela Aguirre
Commission Secretary

THE FOREGOING MINUTES WERE APPROVED BY THE PLANNING COMMISSION ON THE 15th DAY OF SEPTEMBER, 2015.



Phil Cothran
Chairperson