

CORRECTED

(Additions in underline and deletions in strikeout text)

MINUTES

Thursday, November 13, 2014

6:30 P.M.

**REGULAR MEETING
PLANNING COMMISSION**

**Council Chambers
211 Hillcrest Avenue
Marina, California**

1. CALL TO ORDER

Chair Burnett called the meeting to order at 6:35 p.m.

2. ROLL CALL & ESTABLISHMENT OF QUORUM (Planning Commission Members)

David Burnett, Margaret Davis, Eugene Doherty, Greg Furey, Tim Ledesma, Virgil Piper

Members Absent: Ken Turgen (Excused)

3. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE

4. SPECIAL ANNOUNCEMENTS AND COMMUNICATIONS FROM THE FLOOR:

Margaret Davis thanked the City of Marina for their support of the recent Friends of the Fort Ord Warhorse (5th Annual Veterans Day Celebration on Nov. 8th) event that honored military veterans and focused on the Viet Nam era.

Gene Dougherty invited the public to the "Santa Paws" event on the upcoming weekend at the Del Monte Shopping Center in Monterey where a photo CD with Santa will be provided to attendees.

Chair Burnett congratulated those who ran for office, whether winners or losers.

Tim Ledesma thanked everyone for removing campaign signs but noted there were a few large signs still in place.

Resident Tom Bolea announced he would be conducting a tour of a property at 225 Carmel Ave. on Tuesday, Nov. 18, 2014 at 3pm. In attendance would be FORA

representatives and anyone interested from the public. Emphasis will be on the historical use of the property.

5. CONSENT AGENDA:

- a. Minutes for the August 28 and October 23, 2014 Planning Commission meetings

Commissioner Piper made a motion to approve the minutes of August 28. The motion was seconded by Commissioner Davis and passed by a 6-0-1(Turgen)-0 vote.

Commissioner Doherty made a motion to approve the minutes of October 23. The motion was seconded by Commissioner Piper and passed by a 6-0-1(Turgen)-0 vote.

6. PUBLIC HEARINGS:

It is requested that the Planning Commission:

- a. Open a public hearing, take any testimony from the public, and consider:
 - 1. Resolution No. 2014- , approving Site and Architectural Design Review DR 2014-03 for the Site Plan, Landscape Plan and Exterior Elevation Modifications, including a 188 square-foot expansion to the existing 1,448 square-foot building, for the site and a convenience store located at 3044 Del Monte Boulevard (APN 032-312-043), and;
 - 2. Resolution No. 2014- , approving Conditional Use Permit UP 2014-06 to allow for the off-sale of beer, wine and liquor in the modified convenience store, for the above-noted project site, subject to conditions.

This item was withdrawn by the applicant for the Conditional Use Permit. The design approval will go back the Design Review Board. No action was taken.

- b. (Continued from October 23, 2014)
 - 1. Adopting Resolution No. 2014- , approving Conditional Use Permit UP 2014-10 for a Type 48 (On-Sale General for Public Premises) Alcoholic Beverage Control Liquor License, for a four story, ±69,578 square foot hotel with 106 hotel units, including a ±1,750 square foot meeting room and a bar, on a ±2.62 acre project site (APN's 031-251-046 & 031-251-047), located within the Dunes on Monterey Bay Specific Plan area, subject to conditions, and;
 - 2. Adopting Resolution No. 2014- , making a determination that the above-noted project is consistent with the Fort Ord Base Reuse Plan.

Ms. Szymanis gave a staff report.

She noted that the review of the proposed hotel bar by the Police Chief had resulted in a draft resolution conditioned to reduce the requested hours of operation from 11 A.M. to 2:00 A.M., to 11:00 A.M. to Midnight daily. In addition, a condition to both prevent incidents and provide high technology surveillance cameras to aid the Police Department was added.

Ms. Szymanis further noted a correction to the resolution for the Conditional Use Permit and Consistency Determination contained an additional assessor parcel number that did not pertain to the request and that she would strike APN 032-251-047 from the documents. She also noted a typographical error in the numbering of the conditions of approval needed to be corrected. The second set of numbers beginning with '6' should actually be '9' through '13.'

The public hearing was opened.

Tom Bolea, Marina resident, expressed a concern about alcohol sales at the Marriott Hotel.

Mary Ann Leffel, Monterey Business Council, spoke in support of the project.

Harbhajan Dadwal, applicant, addressed the commission. He expressed concerns with certain conditions of approval after meeting with Chief Rodriguez including hours of operation, the requirement for all employees to take the ABC 3 hour training for alcohol service rather than just managers or supervisors, and the 30 day requirement for video recording retention.

The public hearing was closed.

Commissioner Piper commented on the following:

Resolution Condition Number 9: "This Conditional Use Permit is not transferable."

Resolution Condition Number 10: "This Conditional Use Permit shall expire ten years from date of issuance and subject to renewal." Commissioner Piper then read into the record the following from the California Planner's Training Series:

Conditional use permits run with the land not the applicant (*Cohn v. County Board of Supervisors (1955) Cal.App.2d 180*). That is, where conditional use permits are concerned, all related property and personal rights are freely transferable, unless expressly prohibited by law (*Anza Parking Corporation v. City of Burlingame (1988) 195 Cal. App.3d 855*). Inversely, a conditional use permit may not lawfully limit the permittee from transferring it with the land since such a condition is beyond the power of the zoning authority (*Anza, supra*).

Staff stated the city attorney advised there was not sufficient legal information to warrant these conditions and they should be deleted from the resolution.

Commissioner Piper further commented that he felt that the ABC rules already addressed issues in the conditions and that the city should not dictate how a business operates under a permitted license. He further commented that only supervisors should be required to take the 3 hour alcohol training class. He also expressed a concern about restricting operating hours.

Commissioner Ledesma made a motion to adopt the resolutions with the modifications listed above. The motion was seconded by Chair Burnett and passed by a 3-2(Piper, Davis)-1(Furey)-1(Turgen) vote.

- c. (Continued from October 23, 2014)
 - 1. Consider adopting Resolution No. 2014 - , approving Conditional Use Permit (UP 2014-08) to allow application for a Type 20 (Off-sale Beer and Wine) Alcohol Beverage Control Liquor License for the ±1,200 square-foot convenience store located at 416 Reservation Road (APN 032-152-046) in the Retail Business (C-1) Zoning District, subject to conditions.

Mr. Meek gave a staff report.

Sarah Wong, General Manager, addressed the Commission and expressed her agreement with the conditions of approval for the Use Permit.

The public hearing was opened for comment. Hearing none, the public hearing was closed.

Chair Burnet and Commissioner Davis expressed their concerns for the overconcentration of businesses selling alcohol in Marina.

Commissioner Ledesma made a motion to adopt the resolution approving a Conditional Use Permit for the sale of beer and wine. The motion was seconded by Commissioner Piper and passed by a 4-2(Burnett, Davis)-0-1(Turgen) vote.

7. OTHER ACTION ITEMS:

- a. None

8. COMMISSIONERS AND STAFF INFORMATIONAL REPORTS:

- a. City Council, Design Review Board, Tree Committee and other meetings of note.
- b. Upcoming items scheduled for future meetings.
- c. Ad Hoc Committee

9. CORRESPONDENCE:

- a. None

10. ADJOURNMENT

The meeting was adjourned at 8:15 p.m.

ATTEST:

David Burnett, Chair

Judy Paterson, Admin. Assistant II

DATE