

THE MINUTES OF THE MEETING OF THE PLANNING COMMISSION  
OF THE CITY OF LA HABRA  
January 23, 2023

**CALL TO ORDER:** Chair Munoz called the Regular Meeting of the Planning Commission of the City of La Habra to order at 6:30 p.m. in the Council Chamber.

**PLEDGE OF ALLEGIANCE:** LED BY VICE CHAIR ROJAS

**PRESENT:** COMMISSIONERS: MUNOZ  
ROJAS  
BERNIER  
SURICH  
MANLEY

**ABSENT: (EXCUSED)** COMMISSIONERS: NONE

**OTHERS PRESENT:** DIRECTOR: KIM  
PLANNING MANAGER: LUI  
ASSOCIATE PLANNER: D. LOPEZ  
SECRETARY: V. LOPEZ  
CITY ATTORNEY: ROBERTO

## RECOGNITION

Susan Kim, Director of Community and Economic Development, presented a proclamation on behalf of the City for Chair Manuel Munoz in recognition of his service on the Planning Commission.

## PUBLIC COMMENT

Chair Munoz asked if there was anyone in the audience that wished to speak on any item not listed on the agenda. There were none.

## CONSENT CALENDAR

The Chair explained the Consent Calendar procedures. He asked if there were any members of the public or any Commissioners that wished to have any item removed. There were none.

Secretary Lopez requested the Commission to make separate motions on the meeting minutes since some of the Commissioners were unable to attend the meeting held on either the November 14, 2022 and/or the December 12, 2022 and therefore, would have to abstain from voting on those items. Director Kim also requested the Commission to make a separate motion on the procedural waiver.

1. PROCEDURAL WAIVER: Waive reading in full of resolutions and ordinances and approval and adoption of same by reading title only.

Moved by Vice Chair Rojas, seconded by Commissioner Manley. Motion passed 5-0

2. Approval of the Planning Commission Minutes of November 14, 2022.

Moved by Commissioner Manley, seconded by Vice Chair Rojas. Motion Passed 4-0, with Commissioner Surich abstaining.

3. Approval of the Planning Commission Minutes of December 12, 2022.

Moved by Commissioner Surich, seconded by Commissioner Manley. Motion passed 3-0 with Commissioner Bernier and Vice Chair Rojas abstaining.

## **PUBLIC HEARINGS**

1. DULY NOTICED PUBLIC HEARING TO CONSIDER REQUESTS FOR TENTATIVE PARCEL MAP 2022-131 TO SUBDIVIDE A LOT TO CREATE THREE PARCELS, DESIGN REVIEW 22-04 FOR THE CONSTRUCTION OF TWO COMMERCIAL BUILDINGS IN ADDITION TO ASSOCIATED PARKING LOT IMPROVEMENTS AND ACCESSORY STRUCTURES, CONDITIONAL USE PERMIT 22-14 TO OPERATE AN AUTOMOBILE SERVICE FACILITY INVOLVING WHEEL AND TIRE INSTALLATION AND CONDITIONAL USE PERMIT 22-15 TO OPERATE A DRIVE-THROUGH RESTAURANT. THE PROJECT IS LOCATED AT 701 TO 777 SOUTH BEACH BOULEVARD AND 2060 WEST LAMBERT ROAD.

Director Kim reminded the Commission that Commissioner Surich would need to recuse herself from this project because her place of residence is located less than 500 feet from the project site. Commissioner Surich agreed and temporarily left the Council Chamber before any discussion commenced.

Chair Munoz asked if any correspondence had been received in regards to the item. Secretary Lopez said none had been received.

Associate Planner Lopez presented the staff report.

Chair Munoz proceeded to ask if the Commission had any questions, starting with Commissioner Bernier. Commissioner Bernier stated that she did not yet have any questions.

Commissioner Manley asked if the America's Tire building had been reduced in size and wanted clarification on whether the total square footage included the mezzanine area. Associate Planner Lopez said the building was reduced in size to 10,000 square feet and confirmed that the mezzanine was within that square footage. Commissioner Manley then asked if the new smaller canopy would have air compressors or pneumatic tools. Associate Planner Lopez said there would be no pneumatic tools or air compressors outside, but the air compressors would be located within the building. Commissioner Manley questioned the setback of the new smaller building and wondered if it was now closer to the southern property line. Associate Planner Lopez said that the setback did change from 68 feet to 34 feet but there are no longer any vehicle service bay doors along the south elevation and all other doors along the south elevation are required to remain closed during business hours.

Planning Manager Sonya Lui said that the applicant significantly reduced the size of the building and pointed out that the applicant's business operations substantially changed. There would no longer be a focus on drive-thru service. Rather, America's Tire's business operations would follow a more traditional

business operation model which requires customers to park their car and walk inside the building to request any services. The only drive-thru aspect would be to allow vehicles to check and fill air in their tires only, which necessitates a much smaller canopy that has been placed further west to minimize impacts to residents. Planning Manager Lui noted that the applicant put in a lot of effort to address all of the concerns raised by neighboring property owners.

Commissioner Manley asked if the person who prepared the noise study was present as he has questions. Associate Planner Lopez said he was present. Commissioner Manley agreed to hold his questions for the consultants until after all questions were asked of staff.

Vice Chair Rojas asked about the existing ambient noise levels. Associate Planner Lopez said that per the noise impact study submitted, the existing ambient noise coming off of Beach Boulevard and Lambert Road ranged from 61.5 to 68.1 decibels. Vice Chair Rojas then asked, based on the modeling, did the anticipated noise generated by the project meet the City's standards. Associate Planner Lopez said yes, the project is expected to generate noise that ranges from 40 to 49.2 decibels along the southern and western property lines, which will not exceed the City's standard of 55 decibels.

Chair Munoz noted the new smaller canopy and asked about the location of the air compressor. Associate Planner Lopez said it would not be located outside but would be fully contained within a compressor room identified on the floor plan, at the southwest side of the building. The Chair then asked about the building's façade, specifically the tower elements. Associate Planner Lopez said the tower elements were added to break up the façade.

The Chair opened the public hearing and asked if there was anyone wishing to speak in favor of the project.

The applicant, Mark Shenouda of Pacific Retail Partners, addressed the Commission. Mr. Shenouda said they were disappointed that their project did not get approved at the November meeting but was glad they were continued to give them another opportunity to address the public's concerns. He thanked staff for their time and said they had two great companies who were looking forward to doing business in La Habra. He introduced Joe Briscoe, Regional Vice President of America's Tire; Clint Gunnison, Associate Vice President of America's Tire; John Caglia, Development / Construction Manager of Dutch Bros; Dean Arizabal, Principal Traffic Engineer of LSA; Bryan Estrada, Principal Noise and Acoustical Consultant of RK Engineering; Eric Kaelble, Project Manager and architect from Plump Engineering; Reid Kunishige, Project Manager; RA Smith, civil engineer for America's Tire and Gil Mendoza, Civil Engineer, GZMA. Mr. Shenouda said they concurred with the findings and conditions of approval found in the staff report and they hoped for the Commission's approval. He said he and his team would be happy to answer any questions.

Arlene Castro, resident at 720 Mariposa spoke in favor of the project. Ms. Castro said that as a 25-year resident she looks forward to having some permanent businesses at this location. She mentioned some past issues with transients and the strawberry patch business. She said that she preferred to have the proposed businesses instead of a vacant lot. She and her family were also in favor of good companies that generate money for the City.

The Chair then asked if there was anyone wishing to speak in opposition of the project.

Michael Brown, resident at 2031 Elmcroft Circle, said he was opposed to the project. He stated that he had a petition, opposing the project, which contained the signatures of 23 neighbors. Copies of this

document were distributed to the Commissioners. Mr. Brown said he was opposed to the project because he felt it would affect his quality of life, his property's value would go down and the noise levels would be a nuisance.

Mehdi Mirfahah, resident at 2021 Elmcroft Circle, spoke in opposition to the project. Mr. Mirfahah teaches online and said the noise levels from the proposed America's Tires would be too high and would interfere with his online classes and his recorded lectures.

Chris Badalamenti, resident at 2041 Elmcroft Circle, addressed the Commission. Ms. Badalamenti said she has lived in the neighborhood since 1988. She was concerned with the potential noises that would come from tire deliveries and the trash truck since the trash enclosure will be located near her home. She also wondered what the "utility" label on the plans was referencing and questioned whether new utilities would impact her property. Chair Manley informed Ms. Badalamenti that the project has conditions of approval and if they are not meeting those conditions residents could contact Code Enforcement for any issues. Ms. Badalamenti said she was not opposed to new businesses, just this business that would increase the noise levels.

Margaret Muniz, resident at 2001 Elmcroft Circle, addressed the Commission. Ms. Muniz said that the proposed new businesses would increase the number of transients, not decrease the number. Ms. Muniz said she believed the noise levels would be higher and stated it seemed the applicant is able to move forward regardless. Ms. Muniz asked if she would be allowed to build a 10 foot high wall to block the view and lessen the noise level and whether the applicant was paying for this new block wall.

Anna Abraham, resident at 2041 Elmcroft Circle, addressed the Commission. Ms. Abraham said that there was an improvement in the plans from the November meeting, but said that a tire store did not belong next door to a residential community. She also expressed concerns with having another tire store down the street and wondered if there was a minimum separation requirement between other tire stores. She listed other business (such as a children's clothing store, flower shop and dentist office) that she would rather have next door and said that a tire store would affect the tranquility of the neighborhood. Finally, she wondered what the utility easement was shown on the plans.

Mark Shenouda offered a rebuttal. He clarified that the utility easement shown on the plans refers to existing power lines in place and noted that no new utility is being added in this area as part of this project. Mr. Shenouda said that since the multi-bay doors were no longer proposed, the noise levels would be minimal, meeting the City's standard.

Commissioner Manley asked if the plans were showing a wall between the drive through area and the mezzanine. Mr. Shenouda said that the line shown on the plans referred to a drain vent and was not a wall. Commissioner Manley questioned whether there was a wall further north. Associate Planner Lopez confirmed there was a wall shown on the north elevation. Commissioner Manley asked staff to confirm where the wall begins and ends along the north elevation and whether it confines vehicles within the building interior and provides a further barrier to noise being generated. Associate Planner Lopez said the automobile services will be inside the building only and the wall will help confine noise resulting from automobile service work.

Vice Chair Rojas asked if all automobile servicing work would be done inside of the building. Mr. Shenouda explained that their previous design contained multiple vehicle service bay doors and they intended to close these doors with the original design because it directly faced the southern residential properties. However, the revised building design includes only one bay door on each side elevation

which may be open, but all automobile service work would still be contained within the building. Mr. Shenouda re-iterated that the project noise level would comply with the City's noise standards.

Commissioner Manley asked if the delivery trucks would pull up on the west side or north side. Mr. Shenouda said they would most likely make deliveries on the west side of the building.

Chair Munoz asked staff if there was a condition on the hours when they could receive deliveries. Associate Planner Lopez said that per Condition No. 4 of in Resolution Exhibit B, deliveries were limited to 7:00 a.m. to 8:00 p.m. Commissioner Bernier asked if staff new how many deliveries would be made.

Joe Briscoe, Regional Vice President of America's Tire addressed the Commission. Mr. Briscoe said that they expected this store to receive one to two small deliveries per day. Those are typically done by a UPS or FedEx truck. The larger deliveries are typically once a week only. Mr. Briscoe stated that America's Tire has the ability to modify the size, scale and frequency of deliveries as needed.

Vice Chair Rojas asked what security measures they would have in place. Mr. Briscoe said that the building would be equipped with a security system that would work 24 hours a day, seven days a week, 365 days of the year. He and other staff would be alerted if police services are needed.

Commissioner Bernier asked if the building would be sprinklered. Erick Kaelble, Architect for America's Tire, said that the building would be fully sprinklered as required under the Fire Code.

Commissioner Manley wanted clarification on the noise study. He wondered how the sensitive noise receptors worked and where were they placed on the property. Brian Estrada, noise study consultant explained that the adjacent residential properties to the south and west were identified as sensitive noise receptors. The noise consultant took two of the highest noise measurements during a 24-hour period from a similar America's Tire store in Costa Mesa and were able to plug those numbers into a computer model which determined the anticipated noise levels for the La Habra store. Although the proposed project would not exceed the City's standard of 55 decibels and no mitigation was required, Mr. Estrada also mentioned that the applicant would be proposing a new six-foot high wall along the southern property line which should help in keeping the noise levels down even further.

Chair Munoz asked staff if traffic impact fees were paid. Director Kim said that the City's Traffic Manager, Michael Plotnik was present and could answer questions. To address Commissioner Manley's comment, Associate Planner Lopez said that per Resolution Exhibit B, Condition No. 1, the applicant was required to comply with the City's Noise Ordinance and if future complaints were to arise, the applicant would have to provide a new noise study along with mitigation measures. He also mentioned that per Condition No. 3, all activities are limited to the hours of operation. As for the traffic impact fees, Condition 4.33 of Resolution Exhibit A states that the applicant must pay a Traffic Improvement Fee of \$12,426.00. Mr. Lopez also mentioned that for Dutch Bros., the project has a condition of approval which requires the applicant cover all fees if police services are required to control traffic resulting from the project site.

Commissioner Bernier asked if drivers would be able to come in from Del Taco and go towards Dutch Bros. Associate Planner Lopez said that there is a condition of approval requiring the applicant to submit a Traffic Management Plan prior to the issuance of a Certificate of Occupancy, related to traffic containment if there is backup on Lambert Road or Beach Boulevard.

Commissioner Manley asked if the site plan showing the vehicle stacking would be in place during the whole time the business is open or only during peak hours. Associate Planner Lopez said that Traffic Management Plan would be used during their grand opening and during peak hours.

Commissioner Manley asked how long that property had been zoned commercial. Associate Planner Lopez said it has been zoned C2 Commercial for many years. Associate Planner Lopez recalled that the City once contemplated changing the General Plan land use and zoning as part of the General Plan update in 2014, but it was determined that there should be no changes to the General Plan and/or Zoning. Commissioner Bernier asked how long Del Taco and Carl's Jr. have been in operation. Associate Planner Lopez referred to the November staff report which included a brief history of the site and said Del Taco opened in 1967 and Carl's Jr. opened in 1972.

The Chair closed the public hearing and asked for discussion or a motion.

Commissioner Bernier said that she appreciated the revisions that were made to the plans and all her questions have been answered. Commissioner Manley agreed with Commissioner Bernier and told the audience that should the project be approved and the public experience noise issues stemming from the project, the public should contact the City staff and/or Code Enforcement. Commissioner Manley said he was in support of the project and was ready to make a motion. Vice Chair Rojas concurred with Commissioner Manley's comments and agreed she was ready to make a motion. Chair Munoz thanked everyone present for being part of the planning process. He reminded the audience that the project has conditions of approval and to reach out to staff if they see violations.

Moved by Commissioner Manley and seconded by Chair Munoz, approving Resolution No. 23-01, entitled: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA, MAKING THE REQUIRED FINDINGS AND APPROVING DESIGN REVIEW 22-04, CONDITIONAL USE PERMIT 22-14 AND CONDITIONAL USE PERMIT 22-15 TO CONSTRUCT A COMMERCIAL BUILDING TO OPERATE AN AUTOMOBILE SERVICE FACILITY AND TO CONSTRUCT AND OPERATE A DRIVE-THROUGH RESTAURANT, AT 777 SOUTH BEACH BOULEVARD AND 2060 WEST LAMBERT ROAD, AS PER THE APPROVED PLANS AND SUBJECT TO CONDITIONS, AND MAKING THE DETERMINATION THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15332, CLASS 32: "IN-FILL DEVELOPMENT PROJECTS" OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES.

The roll call vote was as follows:

AYES: COMMISSIONERS: MANLEY, MUNOZ, ROJAS, BERNIER  
NOES: COMMISSIONERS: NONE  
ABSTAIN: COMMISSIONERS: SURICH  
ABSENT: COMMISSIONERS: NONE

Moved by Chair Munoz and seconded by Commissioner Bernier, approving Resolution No. 23-02, entitled: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA, MAKING THE REQUIRED FINDINGS AND APPROVING DESIGN REVIEW 22-04, CONDITIONAL USE PERMIT 22-14 AND CONDITIONAL USE PERMIT 22-15 TO CONSTRUCT A COMMERCIAL BUILDING TO OPERATE AN AUTOMOBILE SERVICE FACILITY AND TO CONSTRUCT AND OPERATE A DRIVE-THROUGH RESTAURANT, AT 777 SOUTH BEACH BOULEVARD AND 2060 WEST LAMBERT ROAD, AS PER THE APPROVED PLANS AND SUBJECT

TO CONDITIONS, AND MAKING THE DETERMINATION THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15332, CLASS 32: "IN-FILL DEVELOPMENT PROJECTS" OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES.

The roll call vote was as follows:

AYES: COMMISSIONERS: MUNOZ, BERNIER, ROJAS, MANLEY  
NOES: COMMISSIONERS: NONE  
ABSTAIN: COMMISSIONERS: SURICH  
ABSENT: COMMISSIONERS: NONE

Commissioner Surich returned to the dais.

### **COMMENTS FROM STAFF**

Planning Manager Lui informed the Commission that for the first meeting in February, staff would be presenting an application for a Conditional Use Permit for the sale of beer and wine at Furai Chicken, located at The Row on Harbor Boulevard. She also thanked Chair Munoz for his service and wished him well in his new position. Next, she reminded staff that two seats on the Commission currently held by Commissioner Manley and Commissioner Surich are up for reappointment. Training for Commissioners offered by the League of California Cities will take place at the end of March in Garden Grove. Commissioner Manley questioned if the training would be offered to the new commissioner that fills in for Chair Munoz. Planning Manager Lui responded that the new commissioner will be invited to take part in this training.

Director Kim said that if Commissioner Manley and Commissioner Surich get reappointed, they are welcomed to sign up for training.

### **COMMENTS FROM COMMISSIONERS**

The Commissioners thanked Chair Munoz for his professionalism and guidance as Chair and wished him well in his new assignment as Director of Community Development for the City of La Mirada.

Chair Munoz thanked staff and the Commission and encouraged his fellow Commissioners to keep pushing the envelope.

ADJOURNMENT: 8:10 p.m.

Respectfully submitted,

Veronica Lopez,  
Secretary