

THE MINUTES OF THE MEETING OF THE PLANNING COMMISSION  
OF THE CITY OF LA HABRA  
May 11, 2020

**THE PLANNING COMMISSION MEETING WAS CONDUCTED VIA TELECONFERENCE.  
The public was able to participate by either calling in or sending an email.**

**CALL TO ORDER:** Chair Bernier called the Regular Meeting of the Planning Commission of the City of La Habra to order at 6:33 p.m. The Commissioners, the public and Staff conducted the meeting telephonically through Zoom.

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

**PRESENT: (via phone)** COMMISSIONERS: FERNANDEZ  
NIGSARIAN  
BERNIER  
POWELL  
MANLEY

**ABSENT** COMMISSIONERS: NONE

**OTHERS PRESENT:**

DIR. OF COMM. DEV.: HO  
PLANNING MANAGER: RAMSLAND  
ASSOCIATE PLANNER: LOPEZ  
C.M. EXECUTIVE SECRETARY: HURT  
PLANNING COMMISSION SECRETARY: GONZALEZ

**PUBLIC COMMENT**

The Chair asked if there was anyone on the phone conference or who had sent an email that wished to comment on any item not listed on the agenda. There were none.

**CONSENT CALENDAR**

The Chair explained the Consent Calendar procedures. She asked if there were any members of the public on the phone conference, or who had sent an email, or any Commissioners that wished to have any item removed. There were none.

Moved by Vice Chair Fernandez, seconded by Commissioner Nigsarian to approve the Consent Calendar. Motion passed.

1. Approving the Planning Commission Meeting Minutes of April 27, 2020.

**PUBLIC HEARINGS**

1. Consideration of a request for Planned Unit Development 18-02, for an addition at 1340 South Beach Boulevard (Walmart's online grocery pick up service).

Associate Planner Lopez presented the staff report. The Chair asked if any of the Commissioners had any questions. There were none.

The Chair opened the public hearing and asked if there was anyone on the phone conference, or who had sent an email who wished to speak in favor of the request.

Mr. Jacob Glaze, representing Kimley-Horne/project applicant thanked Associate Planner Lopez for his work on this project and stated that they look forward to continuing to work in City of La Habra.

Director Ho indicated that there were no callers and no emails had been received by anyone wishing to speak on this item.

The Chair then asked if there was anyone who wished to speak in opposition to the request. There were no emails nor anyone on the conference call that wished to speak in opposition.

There being no further speakers, in favor or in opposition, the Chair closed the public hearing and asked for Commissioner comments or a motion.

MOVED BY Vice Chair Fernandez, seconded by Commissioner Manley, APPROVING RESOLUTION NO. 20-16 ENTITLED: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA RECOMMENDING THAT THE CITY COUNCIL APPROVED PLANNED UNIT DEVELOPMENT PRECISE PLAN 18-02 FOR AN ADDITION AT 1340 SOUTH BEACH BOULEVARD, MAKING THE APPROPRIATE FINDINGS, AS PER THE APPROVED PLANS AND SUBJECT TO CONDITIONS.

The roll call vote was as follows:

AYES:	COMMISSIONERS:	FERNANDEZ, MANLEY, POWELL, NIGSARIAN, BERNIER
NOES:	COMMISSIONERS:	NONE
ABSTAIN:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

2. Consideration of a request for Conditional Use Permit 20-05 for a restaurant (Pita Pit) at 1901 West Imperial Highway, Suite C.

Associate Planner Lopez presented the staff report. The Chair asked if any of the Commissioners had any questions. There were none.

The Chair opened the public hearing and asked if there was anyone on the phone conference, or who had sent an email who wished to speak in favor of the request. There were no emails nor anyone on the conference call that wished to speak in favor.

The Chair then asked if there was anyone who wished to speak in opposition to the request. There were no emails nor anyone on the conference call that wished to speak in opposition.

There being no further speakers, in favor or in opposition, the Chair closed the public hearing and asked for Commissioner comments or a motion.

MOVED BY Vice Chair Fernandez, seconded by Commissioner Powell, APPROVING RESOLUTION NO. 20-17 ENTITLED: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING CONDITIONAL USE PERMIT 20-05 TO OPERATE A

RESTAURANT AT 1901 WEST IMPERIAL HIGHWAY, SUITE C, MAKING THE APPROPRIATE FINDINGS, AS PER THE APPROVED PLANS AND SUBJECT TO CONDITIONS.

The roll call vote was as follows:

AYES: COMMISSIONERS: FERNANDEZ, POWELL, MANLEY, NIGSARIAN, BERNIER  
NOES: COMMISSIONERS: NONE  
ABSTAIN: COMMISSIONERS: NONE  
ABSENT: COMMISSIONERS: NONE

3. Consideration of Zone Change 20-02 for an Ordinance modifying La Habra Municipal Code Title 18 (Zoning), Chapter 18.22 (Commercial Cannabis Activity) to reduce the number of permitted commercial cannabis distribution facilities, prohibit cannabis testing laboratories, and modifications to existing development standards.

Director Ho presented the staff report to the Commission. The Chair asked if any of the Commissioners had any questions.

Vice Chair Fernandez stated that Council had asked Staff to go back and look at the code. He asked if the new revised language on development requirements, and all the other cleanup would still apply if the Commission denied the Zone Change or does the cleanup apply to the previous approval. Director Ho explained that if the Commission were to deny the proposed amendments the modifications do not move forward. If the request was denied Staff would probably return at a later date with proposed modifications.

City Attorney Keith Collins stated that the modifications are presented for convenience purposes and that these are changes to the code that Staff would like to place into the ordinance and this is an opportunity to do that. But if the Commission denies the proposal then staff would then return later to change the code.

Vice Chair Fernandez asked what took place at the City Council. He said that he remembered the discussion from the previous meeting and asked for clarification if it was the Commission that decided on the three or four licenses, and did Council just prefer that it was three, so they were kicking it back to the Commission or was it always four and now the Council prefers three.

Director Ho explained that in 2018 when the Commission originally approved distribution and testing Commission approved a cap of a maximum of two licenses. When the recommendation was forwarded to the City Council, the Council increased the cap from two licenses to four licenses.

The item that the Commission heard in March 2020 was the proposed code amendment that would have allowed for mobile delivery of cannabis. At the Council Meeting they decided against approving mobile delivery. At the end of the meeting the Council directed Staff to bring back to them an amendment that would reduce the number of distribution facilities from four to three, as for testing, since we had not had any applications they asked for it to be eliminated.

Commissioner Nigsarian noted that against the backdrop of a growing and severe fiscal crisis, is it true that the two distribution facilities currently in operation are potentially going to generate an excess of \$400,000 per year.

Director Ho responded that that was correct noting there is currently one distribution business in operation that has generated approximately \$459,000 and the other approved facility is under construction.

Commissioner Nigsarian stated that theoretically the other business could generate the same revenue as the first. Director Ho stated that it would generate significantly less due to their projection volumes were not as high as the other distribution facility. He also asked that even though no one has yet asked for a testing facility, it could happen in the future.

Commissioner Nigsarian asked if it was true that a testing facility could potentially generate anywhere from \$10,000 to \$50,000 to the City. Director Ho responded that was correct. He also asked if there was a rational basis to think that just because no one has yet applied for testing they won't in the future and the same for the fourth distribution license. Director Ho responded that yes while these spaces are open there is a theoretic possibility that someone could apply in the future.

Commissioner Manley noted that it had been stated that the existing facility had generated \$459,000 revenue for the City. He asked over what period of time that had occurred. Director Ho stated a little over one year.

The Chair opened the public hearing and asked if there was anyone on the phone conference, or who had sent an email who wished to speak in favor of the request. There were no emails nor anyone on the conference call that wished to speak in favor.

The Chair then asked if there was anyone who wished to speak in opposition to the request. There were no emails nor anyone on the conference call that wished to speak in opposition.

There being no further speakers, in favor or in opposition, the Chair closed the public hearing and asked for Commissioner comments or a motion.

Vice Chair Fernandez expressed he would be in favor of denying the requested amendments. He opined that when we come out of the Covid-19 crisis the City will not likely be in the best financial shape and he felt it would be best to leave the option open. There does not seem to be a reason to take it away and that in his opinion it is better to leave it there in case someone wishes to apply.

Commissioner Nigsarian stated that he agrees with what Commissioner Fernandez had stated.

He added that with his law enforcement background he does not personally think that the City needs another intoxicant but, that none the less the voters of California have approved it. He understands and is very sympathetic to concerns about marijuana but there are financial, legal and philosophical considerations to take into account. He is struck by the fact that the ADHOC fiscal review committee found that distribution and new testing should be a primary consideration for future revenue generation. We have already laid off 38 part-time employees and the COVID-19 crises is going to exact a terrible burden to the City in the long-term crisis that is looming. He explained that unfunded liabilities, pension shortfalls, CalPERS contributions, it's going to be a mess. He said he would hate to see us have to lay off five police officers because some folks have a negative view towards marijuana. For those council members who feel that way he said he has nothing but sympathy but doing this now does strike him as premature. There will also be a new council that will form with the replacement of Mayor Beamish in December. He thinks this is not the time to approve this zone change and create impediments.

Commissioner Powell stated that he shared the concerns of his friends and colleagues with respect to the timing of this issue. He recalls that he had expressed his reservations with respect to cannabis activity in the City; however, after he had the opportunity to read the taskforce's report he understood that the limiting of the retail storefront sales and distribution was paramount and that the types of uses the City was focusing on, such as testing and wholesale, had the lowest impact to the community. The impacts of testing could apply to a number of products, and to have the opportunity to bring \$10,000 to \$80,000 to budget is critical.

He stated that he would not feel comfortable limiting the sites from four to three. He referred to Commissioner Nigsarian's comments and stated "...that this is a catastrophic time for state, county and city budgets with review streams being limited and that we don't have another opportunity, others cities are going to take every opportunity possible to generate revenue that will bring both a reasonable, safe and appropriate amount of money to the City and for that reason I would agree with both of my colleagues this is not the time nor the place to make the decision to limit locations. I have the greatest respect for our Council and I think that people of good will can have different opinions and as we vote our conscious on this again I have respect for decisions and opinions. I think we need to be pragmatic and we have to take the emotion and the thought of cannabis out of the conversation and replace the conversation to pragmatic approach to fiscal responsibility to our City now and in the future."

Commissioner Manley commented this was good dialog and conversation among the Commissioners and was appreciative of all of that. He stated he would echo much of what was said and that this is in part a fiscal decision as well. He expressed concern as to what a decision as this would open the door to in the future as cities look for creative ways to generate funds.

Commissioner Manley asked Director Ho if he was aware of neighboring cities, in North Orange County area, that have approved testing. Director Ho responded he was not aware of any City, but that the cities of Commerce and Costa Mesa were considering it. He commented that based on the information in the staff report that it appears that Monrovia was the closest city to us that had approved testing

Commissioner Manley asked if any neighboring cities have approved distribution facilities and what revenue they had generated. Director Ho responded that Santa Ana had and that the amount of revenue they receive is in the millions, but that it was not a fair comparison to La Habra in terms of scale. Director Ho also noted that Costa Mesa had also approved it but that none of our neighboring cities had.

Commissioner Manley stated he understands why it has come before the Commission but expressed it seemed to him that it is a blurry area for them to make this decision because there are many things to consider and he felt uncomfortable that as a City that we would "dip into this well of money that cannabis could generate for the City and keep dipping into that..." that he would love for the Council and Staff to work diligently to come up with other ways to generate revenue for the City.

Chair Bernier agreed with her colleagues and noted that this was the second time that this had come before the Commission. She made a motion to approve denial of the proposed amendments.

MOVED BY Chair Bernier, seconded by Commissioner Powell, APPROVING RESOLUTION NO. 20-18 ENTITLED: A RESOLUTION OF THE CITY OF LA HABRA RECOMMENDING THAT THE CITY COUNCIL DENY ZONE CHANGE 20-02 FOR AN ORDINANCE AMENDING CHAPTER 18.22 ("COMMERCIAL CANNABIS ACTIVITY") TO REDUCE THE NUMBER OF PERMITTED

COMMERCIAL DISTRIBUTION FACILITIES, PROHIBIT CANNABIS TESTING LABORATORIES,  
AND MODIFICATIONS TO EXISTING DEVELOPMENT STANDARDS AS PER EXHIBIT "A".

The roll call vote was as follows:

AYES: COMMISSIONERS: BERNIER, POWELL, NIGSARIAN, FERNANDEZ  
NOES: COMMISSIONERS: MANLEY  
ABSTAIN: COMMISSIONERS: NONE  
ABSENT: COMMISSIONERS: NONE

COMMENTS FROM COMMISSIONERS

Commissioner Manley thanked everyone for the conversation and thoughtfulness across the Commission and especially for Chair Bernier's facilitation of the meeting.

Commissioner Nigsarian wished all to stay safe and well.

Commissioner Powell also wished to thank Chair Bernier for her leadership and expressed his appreciation.

Planning Manager Ramsland noted there was an error on the agenda and requested Chair to adjourn to Tuesday, May 26, 2020, as Monday the 25<sup>th</sup> was a holiday.

ADJOURNMENT: 7:28 p.m. to Tuesday, May 26, 2020

Respectfully submitted,

Carmen Gonzalez Avila  
Planning Commission Secretary