

**OFFICIAL MINUTES
MONTEREY PARK PLANNING COMMISSION
REGULAR MEETING
MARCH 25, 2014**

The Planning Commission of the City of Monterey Park held a Regular Meeting of the Board in the Council Chambers, located at 320 West Newmark Avenue in the City of Monterey Park, Tuesday, March 25, 2014 at 7:00 p.m.

CALL TO ORDER:

Chairperson Sullivan called the meeting to order at 7:00 p.m.

ROLL CALL:

Planner Tewasart called the roll:

Commissioners Present: Larry Sullivan, Ricky Choi, and Rodrigo Garcia

Commissioners Absent: Michael Hamner and Stephen Lam

ALSO PRESENT: Karl H. Berger, Assistant City Attorney, Michael A. Huntley, Director of Community and Economic Development, and Samantha Tewasart, Acting Senior Planner

ORAL AND WRITTEN COMMUNICATIONS:

None

AGENDA CHANGES AND ADOPTION:

None

APPROVAL OF MINUTES:

None

PUBLIC HEARING:

OLD BUSINESS:

NEW BUSINESS:

1-A.TENTATIVE MAP NO. 072627 – 210 SOUTH MOORE AVENUE (PM-13-02)

The applicant, Nicole C. Wang, is requesting approval for a subdivision of air rights to establish and maintain a four-unit condominium project at 210 South Moore Avenue in the R-3 (High Density Residential) Zone.

Commissioner Garcia asked about the Housing Element and the need for affordable housing and the role of the Design Review Board.

Applicant Kamen Lai at 8748 East Valley Boulevard, Suite K, Rosemead, stated that the owner reviewed the Resolution and accepts all the conditions of approval.

Commissioner Garcia asked about the selling price of the units.

Property owner Andy Nguyen replied \$400-\$450 per square feet.

Chairperson Sullivan asked about the turn around and parking.

Planner Tewasart replied the minimum requirements are provided.

Action Taken: The Planning Commission continued the item to a date uncertain.

Motion: Moved by Commissioner Garcia and seconded by Commissioner Choi, motion carried by the following vote:

Ayes: Commissioners: Sullivan, Choi, and Garcia
Noes: Commissioners: None
Absent: Commissioners: Hamner and Lam
Abstain: Commissioners: None

1-B. TENTATIVE MAP NO. 072557 – 328 SEFTON AVENUE (PM-13-03)

The applicant, Jian Ni, is requesting approval for a subdivision of air rights to establish and maintain a three-unit condominium project at 328 Sefton Avenue in the R-3 (High Density Residential) Zone.

Commissioner Garcia asked about renderings.

Planner Tewasart replied renderings are not a submittal requirement for tentative map applications.

Chairperson Sullivan asked about the width of the driveway and the trash enclosure.

Applicant Andy Yu at 350 Walnut replied that the property owner accepts all the conditions.

Action Taken: The Planning Commission continued the item to a date uncertain.

Motion: Moved by Commissioner Choi and seconded by Commissioner Garcia, motion carried by the following vote:

Ayes: Commissioners: Sullivan, Choi, and Garcia
Noes: Commissioners: None
Absent: Commissioners: Hamner and Lam
Abstain: Commissioners: None

1-C. APPEAL – 420 WEST HELLMAN AVENUE

The Appellant, Peter Lim, is requesting approval of an appeal of the City Planner's decision to not allow the reconstruction of a demolished residential dwelling unit without complying with the rear yard setback of 25 feet. The subject site is located in the R-2 (Medium-Multiple Residential) Zone and the residential dwelling unit in question is in the rear yard facing Hellman Avenue.

Director Huntley provided a summary of the staff report. He stated that the property owner emailed additional information that provides some justification from the architect's point of view. He clarified that the email states the garage was left standing, but all of

the structures have been demolished. The architect's letter does not have a date, but does go back to late December of last year.

Commissioner Garcia asked about the intent of the project.

Director Huntley responded that it is the intent of the property owner to move forward with the project and rebuild the structure as shown on the plans. The applicant submitted plans for plan check, the plans went through the process and got approved by the City. The project is an existing second single family unit at the rear of the property and the intent was to adjust some of the square footage to make the unit a little more livable, as well as modifying the garage slightly.

Commissioner Choi asked what attempts were made to verify what the applicant had provided as the reasoning for the demolition.

Director Huntley replied that it was not until the building inspector went out to do the inspection for the temporary power pole that the City identified that the entire structure had been torn down. The building inspector reported back to the City that that had occurred and the City contacted the general contractor. The contractor conveyed to staff what the conditions were with those walls and when and why the demolition occurred. The applicant produced four separate pictures after-the-fact that shows construction debris. He inspected the site and did not see any demolition debris. The general contractor mentioned that they did save some of it. They had put it on a pallet off-site some place. The City cannot verify whether or not the debris is from the property.

Commissioner Choi asked if the applicant obtained a demolition permit.

Director Huntley replied that as part of the approved set of plans to do the remodel, part of that would include demolition of specific walls as called out on the plans. The permit was not just for a demolition of the entire structure.

Chairperson Sullivan asked about the relationship between the front house and the rear house.

Director Huntley replied they are both on the same property. The structures were built at two different times. The one on the back was built in 1957. The front unit was remodeled 15 to 20 years ago. It is one property zoned R-2 that allows for two units. It is under a single ownership.

Commissioner Garcia stated that he understands the code, but asked what staff sees is the problem if the property owner was permitted to reconstruct the same square footage in the same location.

Director Huntley replied it would set a precedent.

Chairperson Sullivan asked about the setback off Hellman Avenue.

Appellant Lim provided a summary of his findings.

Property Owner, Richard Lam, provided a history of the events leading up to the demolition.

Commissioner Garcia asked about the ceiling height in the rear unit.

Director Huntley replied that the approved set of plans does include increased ceiling height.

Commissioner Garcia asked about the possibly of constructing a second story.

Director Huntley clarified that the use was considered nonconforming because of the setback.

Commissioner Choi asked if there are any exceptions or extraordinary circumstances that would allow the 4 feet 10 inches setback.

The property owner presented some diagrams of the property.

The Appellant stated that the foundation exists at 4 feet 10 inches away from the rear property line.

Chairperson Sullivan asked about the front of the lot.

Director Huntley replied the front is the narrowest street frontage, which fronts onto South Ynez, The rear yard setback is front the easterly property line.

Commissioner Garcia asked about the potential for a second story.

Planner Tewasart replied that any additional square footage would require the property to comply with other code requirements such as parking and open space.

Commissioner asked if the Appellant would be able to apply for a setback variance.

Planner Tewasart replied that only if the required findings can be made.

Commissioner Garcia stated that it is not the owner's fault that the contractor was incompetent. He stated that he is sympathetic.

Commissioner Choi asked if this situation happened to another resident would it have to come before the Planning Commission.

Assistant City Attorney Berger replied that the application before the Commission is an appeal of the City Planner's enforcement of the law. The law is that nonconforming uses cannot expand and they cannot be voluntarily demolished and rebuilt. The legislative idea behind that law is that eventually nonconforming uses are suppose to go away over a period of time because the City has decided to adopt new zoning for those particular areas and new requirements. So the public policy behind that is that those types of nonconforming uses are eventually over time suppose go away as new buildings come in and new uses go on. This case is unique because it is an appeal of a decision that was made by the City Planner. So the role of the Planning Commission is to determine if the City Planner's decision was correct based upon the laws and the facts or is the Appellant correct based upon the laws and the facts.

Commissioner Garcia asked why the case is even before the Planning Commission if the law is clear.

Assistant City Attorney Berger replied that they have due process rights in order to appeal a decision. The Planning Commission is acting in a quasi judicial capacity to make a determination on whether the evidence before the Commission supports the City Planner's decision or the Appellant's view of what happened.

Commissioner Garcia asked if the Commission approved the appeal then would they be setting a precedent.

Assistant City Attorney Berger replied that if there was indeed mold or other types of problems associated with this project, the person in charge of demolishing the house should have called the City to inform the City that they are encountering problems and the City would have sent an inspector out to make a determination of whether indeed that was the case and the nonconforming law does allow that in emergencies or under different circumstances based upon the facts that you can rebuild a nonconforming use. If indeed, for example, if there was mold or termite damage. The problem for the City Planner was at the time the decision was made there was no evidence and pictures to make a determination of whether or not the demolition was proper at that time. So the City Planner's determination was that it was not proper because it violated the demolition and building permits that were issued and the plans.

Commissioner Garcia stated that he does not see any harm in letting the property owner reconstruct the house.

Commissioner Choi asked when the City was in possession of the photo, whether it was before or after the decision was made.

Director Huntley replied after.

Action Taken: The Planning Commission did not take action.

Motion: To uphold the City Planner's decision, motion carried by the following vote:

Ayes: Commissioners: None
Noes: Commissioners: None
Absent: Commissioners: None
Abstain: Commissioners: None

Action Taken: The Planning Commission did not take action. The motion dies for lack of a second. The appeal is denied without a resolution being adopted. The Appellant will have the option to appeal a non-decision by the Planning Commission to the City Council. The City Planner's decision remains in place.

Motion: To overturn the City Planner's decision and direct staff to resolution memorializing the Planning Commission decision, moved by Commissioner Garcia, motion carried by the following vote:

Ayes: Commissioners: None
Noes: Commissioners: None
Absent: Commissioners: None
Abstain: Commissioners: None

ITEMS FROM COMMUNITY AND ECONOMIC DEVELOPMENT:

Director Huntley discussed the new format of the agenda. He also addressed the Chairperson's interest in attending the ICSC Conference and due to a lack of budget cannot send a Commissioner to go. However, next year will be the League of California Cities Conference which will be local and may be the more appropriate conference to attend.

ITEMS FROM THE COMMISSION

Chairperson Sullivan asked staff about the changes made to the project proposed at the corner of Newmark and Ramona. Director Huntley replied that the total number of parking provided was 28. There were 9 enclosed spaces in the subterranean parking garage and in addition to that there was an additional 19 at-grade open to the general public to use. Some issues came up with federal funding. To reduce the shortfall, the only way to reduce the cost was to eliminate the 9 spaces, but that is strictly for City staff to use for City vehicles. The required parking is still being provided for all the units proposed to be built on this site and the 19 spaces at grade will still be available for public use.

ADJOURNMENT

There being no further business for consideration, the meeting was adjourned on March 25, 2014 at 8:30 p.m. to the next regular meeting on April 8, 2014 at 7:00 p.m. in the Council Chambers.

Michael A. Huntley
Director of Community and Economic Development

Approved on at the regular Planning Commission meeting.