

THE MINUTES OF THE MEETING OF THE PLANNING COMMISSION
OF THE CITY OF LA HABRA
May 8, 2023

CALL TO ORDER: Chair Rojas 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 COMMISSIONER MAHECHA

PRESENT: COMMISSIONERS: ROJAS
BERNIER
SURICH
MAHECHA

ABSENT: (EXCUSED) COMMISSIONERS: MANLEY

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

PUBLIC COMMENT

Chair Rojas 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

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

Moved by Commissioner Mahecha seconded by Vice Chair Surich to approve the Consent Calendar. Motion passed 4-0.

1. **PROCEDURAL WAIVER:** Waive reading in full of resolutions and ordinances and approval and adoption of same by reading title only.
2. Approval of the Planning Commission Minutes of April 24, 2023.
3. Receive and file the appeal of public nuisance filed by Coyote Village Homeowners Association.

PUBLIC HEARINGS

1. Duly noticed public hearing to consider a request for Zone Change 23-01 to amend Title 18 (Zoning) of the La Habra Municipal Code relating to general retail uses and personal services and their hours of operation.

Chair Rojas 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 Rojas asked if any of the Commissioners had any questions.

Commissioner Bernier asked if staff could provide additional information on the incidents that occurred which led to proposing limits on the hours of operation for general retail. Associate Planner Lopez noted that there were robberies at some of the affected businesses in 2022.

Vice Chair Surich questioned whether other cities who have implemented restrictions on hours of operation for retail stores have done studies to show that there has been a reduction in crime. Associate Planner Lopez said that staff surveyed other cities about general retail hour restrictions, but did not ask cities to provide any additional findings. Vice Chair Surich asked if there has been only one reported robbery in La Habra. Associate Planner Lopez responded that he did not have the specifics on the total number of robberies. Director Kim said that Council directed staff to move forward with this ordinance in response to one particular event that occurred in 2022, but also noted that there were other crime incidents and staff could include that information in the staff report that will be presented to Council.

Commissioner Mahecha asked staff to clarify how requiring a Conditional Use Permit (CUP) can have an impact on businesses operating on a 24-hour basis. Director Kim said staff considered whether certain incidents were related to the hours of operation for selling alcohol, but learned that the Department of Alcoholic Beverage Control (ABC) already restricts the hours that a business can sell alcohol. However, ABC does not limit the hours that a business can operate. Staff found some of the convenience stores in the city are open 24 hours a day and considered whether or not these required further regulation. Director Kim explained that there is a general concern about whether 24-hour general retail businesses have adequate staffing and on-site security. Director Kim stated that the proposed amendment did not include specific hours of when businesses should be closed in the resolution in order to allow more flexibility to the businesses, but noted that the Commission may propose hour restrictions as part of their recommendation. Commissioner Mahecha asked if staff's concern was related to the sale of alcohol. Director Kim said that was not the reason for the incident that took place since ABC clearly says that alcohol can not be sold between 2:00 a.m. and 6:00 a.m. The issue appears to be more related to general retail businesses that don't have defined opening and closing times. When there are defined opening and closing times, businesses are able to clean up for the day and people tend to vacate the premises. Whereas, when a business is open for a continuous 24 hours, there appears to be issues including more loitering.

Commissioner Bernier said that it sounds like staff is updating an outdated regulation. Director Kim said that staff wanted to make a distinction between general retail and personal services and then review the business hours. With the CUP process, the owner could propose their hours of operation and be conditioned as necessary by the Commission. Commissioner Bernier wondered if this would apply to liquor stores that have already been approved through the CUP process. Director Kim said that staff believes all of the liquor stores in La Habra already have set hours of operation and they would not be affected.

Commissioner Mahecha said she appreciated the flexibility of the draft resolution for Zone Change 23-01 by not setting specific hours of when businesses should close and open.

Vice Chair Surich agreed with Commissioner Mahecha's comment and said that allowing some convenience stores to be open 24 hours a day makes sense. There are some people who do not work traditional daytime hours from 8:00 a.m. to 5:00 p.m. and need the option to shop at 3:00 a.m. to buy necessities such as milk for that morning.

Chair Rojas asked if a business owner could circumvent the proposed amendment because there are no specific hour restrictions by simply closing for an hour or even 30 minutes. Director Kim confirmed that yes that could happen. Chair Rojas asked what are the fees associated to process a CUP. Associate Planner Lopez said the current fees are \$6,491. Chair Rojas then ask if the five businesses being affected by the proposed amendment could get some kind of subsidy to help them pay those fees. Director Kim said that is an issue that Council can consider when the item is presented for their approval.

Vice Chair Surich said she was happy that Council would consider waiving the CUP fees for those five existing businesses currently operating 24 hours a day and that only a new business that applies for a CUP after the adoption of the proposed amendment would be required to pay the CUP fee.

Commissioner Mahecha asked why this was considered a fiscal impact. Director Kim said that every staff report that staff prepares includes the costs associated with processing an applicant's request or application. Staff could have expanded on this and stated that the cost associated with a zone change is already included in the department's operating budget, but staff wanted to show what the CUP process would cost if Council should decide not to waive the CUP fee for existing businesses.

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

Ranjit Singh, owner of the 7-Eleven store at 100 West La Habra Boulevard, addressed the commission. Mr. Singh asked staff to consider if his store was required to close from 12:00 a.m. to 5:00 a.m., but others were allowed to remain open, whether that would have an impact on his store. He also asked if he was subject to providing security cameras and security guard requirements. Chair Rojas said that these types of requirements would be determined on a case-by-case basis and suggested that he speak with Associate Planner Lopez after the meeting to get his questions answered.

Chair Rojas opened the public hearing and asked if there was anyone wishing to speak in opposition of the item.

Jatinder Jhaj, franchisee at 541 West Imperial Highway, addressed the Commission. Mr. Jhaj said that they had approached the City last year for help after a clerk and a customer were shot. However, the proposed amendment was not what he was expecting. Rather, he was anticipating that the City would identify set hours of when they should be closed, preferably 12:00 a.m. to 5:00 a.m., Mr. Jhaj finds that establishing set hours is necessary because the 7-Eleven corporate office currently does not allow them to be closed. Mr. Jhaj felt that the requirements as they stand currently are too ambiguous and he would not be in support of this.

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

Chair Rojas wondered if staff was made aware of the concerns that the business owners have and questioned if an option to consider specific hours was on the table. She asked if that would be left up to City Council or if staff wanted to be more flexible and not include a set of hours of when businesses

should be closed. Director Kim said staff drafted the proposed ordinance to include as much flexibility as possible, but would be open to recommending set hours more along the lines of 2:00 a.m. to 4:00 a.m. or 2:00 a.m. to 5:00 a.m. Chair Rojas asked what were the hours where the liquor stores are not allowed to sell alcohol. Director Kim responded that alcohol sales were prohibited from 2:00 a.m. to 6:00 a.m., but staff's intent was to allow the flexibility for a business to sell a coffee or a danish and not be required to wait until 6:00 a.m. Staff thought that being more flexible would work for most business owners and noted that none of the business owners reached out to express their concerns to staff before tonight's meeting.

Commissioner Bernier asked if it would be beneficial to bring this item back with different verbiage or continue the item to change the requirements. Director Kim said that the Commission could make a recommendation today to add verbiage to the ordinance to include specific hours of operation to be set by City Council. The Commission could also choose to recommend this item be continued and a new staff report with a new ordinance could be presented. Commissioner Bernier asked the Commission if they would agree to add certain hours of operation. Commissioner Mahecha said she would not be in agreement if they added certain hours because she felt that what needs to be addressed is the specific requirements and not the concerns of the hours for one specific business owner. Commissioner Mahecha stated that a Walmart would have different requirements than a 7-Eleven. Director Kim said that is typically the purpose of the CUP. Conditions are set on a case-by-case basis. If staff came up with specific operating requirements, then there would not be a need for a CUP, the specific requirements would be added to the code and everyone would have to confirm to those standards. Commissioner Mahecha said that is what makes sense to her and not adding specific hours of operation. Chair Rojas reminded the Commission that they were only making a recommendation to City Council. Staff would have time to modify their staff report after reaching out to the affected businesses. She said that the City Council could change their recommendation. They could say that there should be set hours and just leave it at that without stating the specific hours. The hours could be added later by the City Council once staff has reached out to the businesses.

Moved by Commissioner Bernier and seconded by Chair Rojas, Approving Resolution No. 23-05 Entitled as amended: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT AND ORDINANCE APPROVING ZONE CHANGE 23-01 TO AMEND TITLE 18 (ZONING) OF THE LA HABRA MUNICIPAL CODE RELATING TO GENERAL RETAIL USES, PERSONAL SERVICES AND THEIR HOURS OF OPERATION WITH POTENTIAL HOUR LIMITS TO BE DETERMINED BY THE CITY COUNCIL.

The roll call vote was as follows:

AYES: COMMISSIONERS: BERNIER, ROJAS, SURICH

NOES: COMMISSIONERS: MAHECHA

ABSTAIN: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: MANLEY

COMMENTS FROM STAFF

Planning Manager Lui informed the Commission that there are no items ready to be scheduled for the May 22 meeting and therefore, staff recommends that the Commission adjourn to June 12.

COMMENTS FROM COMMISSIONERS

Commissioner Mahecha said she was happy to see participation in the process.

Commissioner Bernier said she was part of the General Plan Advisory Committee and is hopeful that this new recommendation will be beneficial to all. The overarching issue is safety for the community.

Vice Chair Surich said she knows that the business owners will do everything they can to keep the community safe and staff wants them to be safe too. She hopes that this comes to a resolution soon when this item goes to Council.

Chair Rojas said she was also glad to see participation from the public. She encouraged the people in the audience to voice their opinions to staff so they can take their options to Council.

ADJOURNMENT: 7:08 p.m. to the Planning Commission meeting on June 12, 2023.

Respectfully submitted,

Veronica Lopez,
Secretary