



MINUTES
CITY OF NORCO
PLANNING COMMISSION
CITY COUNCIL CHAMBERS – 2820 CLARK AVENUE
REGULAR MEETING
FEBRUARY 11, 2009

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1. CALL TO ORDER: 7:00 p.m.
 2. ROLL CALL: Chair Wright, Vice-Chair Jaffarian, Commissioners Harris, Hedges, and Wright
 3. STAFF PRESENT: Planning Manager King, Senior Planner Robles, Lt. Cooper, Senior Engineer Askew, Executive Secretary Dvorak
 4. PLEDGE OF ALLEGIANCE: Chair Wright
 5. APPEAL NOTICE: Read by staff.
 6. HEARING FROM THE AUDIENCE ON ITEMS NOT LISTED ON THE AGENDA: None.
 7. APPROVAL OF MINUTES: Minutes of January 28, 2009

MOTION: M/S Jaffarian/Newton to approve the minutes of January 28, 2009 as written.

AYES: Unanimous

MOTION CARRIED

8. CONTINUED ITEMS: PUBLIC HEARING: Compliance Report – Status of Compliance of Modified Conditional Use Permit 2002-14 (Maverick Steakhouse); and **Resolution No. 2009-___**, Conditional Use Permit 2002-14, Modification 2 (Maverick Steakhouse): A Proposal to Amend the Approved Project to Allow the Service of Food and Alcoholic Beverages on the Existing Outdoor Patio Deck on Property Located at 3841 Old Hamner Avenue in the C-G (General Commercial) Zone. Item Continued from January 28, 2009. Recommendation: Denial (Planning Manager King)

PM King presented the staff report on file in the Planning Division. On Exhibit “J”, there was a correction; there is no direct connection from the restaurant to the deck. Food and drinks would need to be brought out through the front door to the deck. PM King said the autocad exhibit indicated where the deck encroaches into Caltran’s right-of-way and that was the area in which the Caltran’s fence had been taken down. In the discussion of parking, there are actually 18 parking spaces, not 10 as noted in the report. If the proposed use were to be approved, there would need to be 9 more parking spaces, for which there is no room. Parking for the current use already overflows onto adjacent properties. A variance is not justified because there are other areas where the building could expand.

In response to Member Newton, SE Askew said the encroachment, about one foot, was discovered just this past week. The map exhibit does not show the missing Caltran's fencing. Caltran's does not have setback requirements but typically sets their fences on property lines or one foot in on their side, and they want their fence put back. SE Askew also explained how Caltrans went about purchasing right-of-way for the I-15, leaving some properties nearly intact while cutting into others more.

In response to Member Harris, PM King said the structure did not need a building permit, but the request to add to the use is part of the conditional use process.

Chair Wright asked why didn't the City know about the encroachment a year ago when the conditional use permit was approved. Staff did not know.

There was discussion about what "may adversely" meant in Finding J.2 regarding adjoining land uses. PM King said that term was used because parking already overflows onto adjacent properties. Because of the use of the Park & Ride site, Caltrans indicated it would be asking for a traffic study if this were approved. Member Newton said then that would justify Finding J.4 regarding traffic being an undue burden. Staff said that was correct.

Member Newton asked for discussion on Conditions 23 and 14 of Resolution 2007-64.

Regarding Condition 23, PM King noted that the applicant has just recently hired a security agency but there has not been enough time to qualify that the new coverage was adequate. Lt. Cooper said he was satisfied with what was reported in the staff report.

Regarding Condition 14, Member Newton asked Lt. Cooper if the Sheriff's Department could wait until next October for the next annual report as to the appropriate security level. Lt. Cooper was highly concerned that the public be protected. He felt that there needed to be a change to the conditional use permit to require higher levels of security.

PM King explained that the Commission could ask for a sooner update or if serious enough, direct staff to begin a revocation process. The Management Team could also instigate an earlier update.

The public hearing was declared opened.

Jeannine Adams, 3452 Broken Twig, said this was serious. The Commission has an expert in the Sheriff's Department asking for changes in the conditions but the situation seems to be downplayed. The Commission has ponderous evidence and she asked that the Commission do what will protect the public. As it stands, it is all illegal and the owner keeps getting away with it. He is still not off probation for serving alcohol to minors. Ms. Adams said the Commission needs to be responsible and say no.

Lois Louck, 4328 Crestview, spoke in favor of the proposed use. She said this bar is still more peaceful than other bars in town. She accused the City of wanting to take the applicant's land.

Rob Koziel, applicant, 3841 Old Hamner, said that he removed the chain link fence because it was in the way of his deck. He said everything about this deck was known to the former building official and the former Director of Community Development. Mr. Koziel said DCD Daniels was okay with the current setback when the applicant pointed out that Rubio's has only an 8-foot setback. The Building Official was okay with no ramp being built but the applicant did obtain permits for the handrail and steps. He was not aware that Caltrans places their fences another foot in but then apparently neither was staff. He noted that he has to have security onsite at 7 p.m. when there are hardly any customers and that he doesn't need security until entertainment begins at 9 p.m. Mr. Koziel emphasized that his business is extremely safe because he doesn't tolerate anything such as staring down, baggy pants, etc. He offered to answer any questions.

Member Hedges asked Mr. Koziel about the new security coverage.

There were no further comments and Chair Wright closed the public hearing.

Member Newton questioned if Rubio's and Chipolte's had restrictions on alcohol and hours of operation. PM King said probably not, but he would need to refer to the files, but that these only offered beer and wine, not hard liquor like Maverick's does.

PM King said the proposed use of the deck expands the occupancy load which is currently at 284 persons. The expanded use occupancy would be determined by the Fire Department. Member Newton asked if the occupancy rate would remain at 284; staff replied that would have to be researched.

Vice-Chair Jaffarian had issues about the deck expansion. He expects that a business expects to be a success. This patio could go on other areas of the property with the best location for ultimate success being in the paved parking area. Handicapped accessibility was not discussed earlier but federal law requires equal accommodations. This deck being so close to freeway ramps is the main issue. He suggested the Commission just receive and file and have staff bring back another status report in October.

Member Hedges agreed this is a bad idea and suggested also to receive and file.

Member Harris asked how cutting down the Sheriff Department's suggestions for security guards happened.

PM King explained that was done during discussions at the meetings held on this item. To modify again would be a public hearing.

Chair Wright said he agreed with Vice-Chair Jaffarian that the patio deck is what it is but it is not acceptable to have alcohol served that close to the street. It is a bad situation with the high traffic and has the potential for a lot of bad situations. If the deck were built somewhere else, it might be more viable but then parking spaces would be lost. The applicant is generally in compliance but there will always be security issues. He agreed the report

should be received and filed, and come back in October unless staff deems otherwise. He concurs with staff on the denial of the proposed deck use.

Member Newton noted that the kitchen can serve food up until midnight, although most meals are done by 9 p.m. It is currently too close to the street but if the deck were moved to the north side of the building, with restrictions on time, he could go with that. As it stands, Member Newton cannot support this use and would like to see the status report sooner than October. Member Harris agreed.

Member Jaffarian said that the applicant has done a lot to meet compliance. Staff would bring back the issue at any time they deem necessary.

Lt. Cooper stated that this bar has more shootings and more incidents than any other bar in town.

MOTION: M/S Jaffarian/Hedges to receive and file the status report on Maverick's.

AYES: Harris, Hedges, Jaffarian and Wright
NOES: Newton

MOTION CARRIED

Member Newton wants to see staff bring back a report based on the Sheriff Department's comments.

MOTION: M/S Jaffarian/ Hedges to adopt Resolution 2009-04 denying a request to allow eating and drinking on the outdoor deck at Maverick's.

Member Jaffarian said he is not against the project, only the specific location and the close proximity of the deck to the street. Security is a problem, parking needs to be addressed, along with the fact that the deck is partially on Caltrans' property.

AYES: Unanimous

MOTION CARRIED

9. PUBLIC HEARINGS: None

10. BUSINESS ITEMS: None

11. CITY COUNCIL: Received and Filed

A. City Council Action Minutes dated February 4, 2009

B. City Council Minutes dated January 21, 2009

12. PLANNING COMMISSION: Oral Reports from Representatives on Various Committees/Commissions: Member Harris spoke about the reorganization of the Economic Development Advisory Committee.

13. STAFF: None

14. OTHER MATTERS:

- Member Newton missed the work log that wasn't included in this agenda.
- Greg asked about the Ami Hacienda issue. Lt. Cooper said staff did not want to deal with more than one bar issue at a time.

15. ADJOURNMENT: 8:40

Respectfully submitted,

Steve King
Planning Secretary

/sd-71700