

Planning Commission Staff Report

February 27, 2013
Item 6.b.

SUBJECT: P12-1821

APPLICANT: Eric DeBlasi

PROPERTY OWNER: FFHA Associates

PURPOSE: Application for a Conditional Use Permit to operate a restaurant and bar/night club within an approximately 10,746 sq. ft. tenant space (in the Gateway Square Shopping Center).

GENERAL PLAN: Business Park (Industrial / Commercial and Office) and Mixed Use

ZONING: PUD-I/C-O (Planned Unit Development-Industrial/Commercial – Office) District

LOCATION: 4825 Hopyard Road, Suites 4-10

ATTACHMENTS: Exhibit A, Draft Conditions of Approval
Exhibit B, Site Plan, Floor Plans, Security and Training Plan, Sample Food Menu, and Narrative
Exhibit C, Hacienda Business Park Letter of Approval
Exhibit D, Police Incident Report
Exhibit E, Prior Approvals Informational Packet (provided under separate cover)
Exhibit F, Location and Noticing Map

BACKGROUND

The 88,589-square-foot Gateway Square Shopping Center was approved by City Council in 1986 (case PUD-81-30-35D). In 1990, the Planning Commission approved a Conditional Use Permit for Sh Boom (case UP-90-43), a 1950's themed dance club with alcohol service, to be operated in a 10,746-square-foot tenant space. The approved hours of operation were from 5:00 p.m. to 2:00 a.m., seven days a week with limited food service and with a maximum occupancy of 643 people. Between the mid 1990's and 2003, teen night dance activities were approved, operated, and discontinued. A

request to operate the teen night again (in 2003) was approved. The operator discontinued the teen night activities at some point after the 2003 reinstatement. The approval of the teen night activities was subject to the information and floor plans provided with the 2003 application, however, the changes to the floor plan in 2004 rendered the teen night approval invalid. Because of the high volume of material, staff has provided an informational packet for the Planning Commission's reference under separate cover. It contains the staff reports and related documentation for previous approvals, including the previously approved teen nights (Exhibit E).

In 2004, the business underwent cosmetic changes and the name was changed to Aura. While cosmetic changes were made to the facility, it continued to operate as a dance club/bar under the existing Conditional Use Permit.

In 2010, Diamond Pleasanton Enterprise received approval from the Planning Commission for modifications to the existing Use Permit to increase the occupancy and to allow outdoor dining (PCUP-273). Diamond Pleasanton Enterprise renamed the club Status and later renamed it again as NEO. In 2010, the applicant received approval to make modifications to the interior to increase the maximum occupancy from 643 to 812 (patrons and employees combined) and added an outdoor patio area with a barrier within the sidewalk area on the south side of the building.

In 2011, Diamond Pleasanton Enterprise filed an application to further modify the existing CUP to allow activities for patrons under the age of 21 years old (Case P11-0647). However, the processing of that application was postponed at the request of the applicant and then later withdrawn. Additionally, in 2011, several incidents occurred at the night club that led staff to bring the CUP to the Planning Commission to consider possible modifications to the existing conditions of approval and/or a revocation of the Use Permit (Exhibit E).

On February 8, 2012, the Planning Commission considered the possible modification of the existing Conditions of Approval or revocation of the Conditional Use Permit for Club NEO. Based on incidents that occurred at the club in December 2011 and January 2012, involving large crowds of persons fighting, a shooting incident, and other criminal activities, the Planning Commission approved a reduction in the night club's occupancy to allow a maximum of 300 patrons plus club staff (a reduction from the approved limit of 812 persons-patrons and club employees combined). The Planning Commission also modified other conditions of approval related to security, hours for serving alcohol, etc.

Club Neo appealed the Commission's decision. At the April 5th, 2012 hearing, the City Council denied the appeal, thereby upholding the Planning Commission's decision. Staff has prepared a packet of information on all prior approvals (Exhibit E), including a summary prepared by the Pleasanton Police Department of activity at the Club between October 1, 2011 and January 26, 2012, prior staff reports, and meeting minutes associated with the prior operations at this location.

Club Neo has not been operating at full capacity since February 2012 and the club has opened for business only a few times in the last year.

The current applicant, Eric DeBlasi, has been meeting with the City since October 2012 to discuss his proposed business concept, Coconuts Beach Bar and Seafood Grill. A formal Conditional Use Permit application was submitted to the City on December 21, 2012. Through the month of January, Planning staff and the Police Department worked closely with the applicant to prepare the submittal package that is before the Planning Commission for review.

SITE DESCRIPTION

The subject property is a 9.7-acre parcel, known as Gateway Square, located at the northeast corner of Hopyard Road and Stoneridge Drive in Hacienda Business Park (HBP). The proposed use would be located in a one-story structure, one of five on the site with a large parking lot (432 spaces) that serves the existing buildings. The subject building is a multi-tenant building with approximately 10,746 square feet of area designated for the existing establishment.

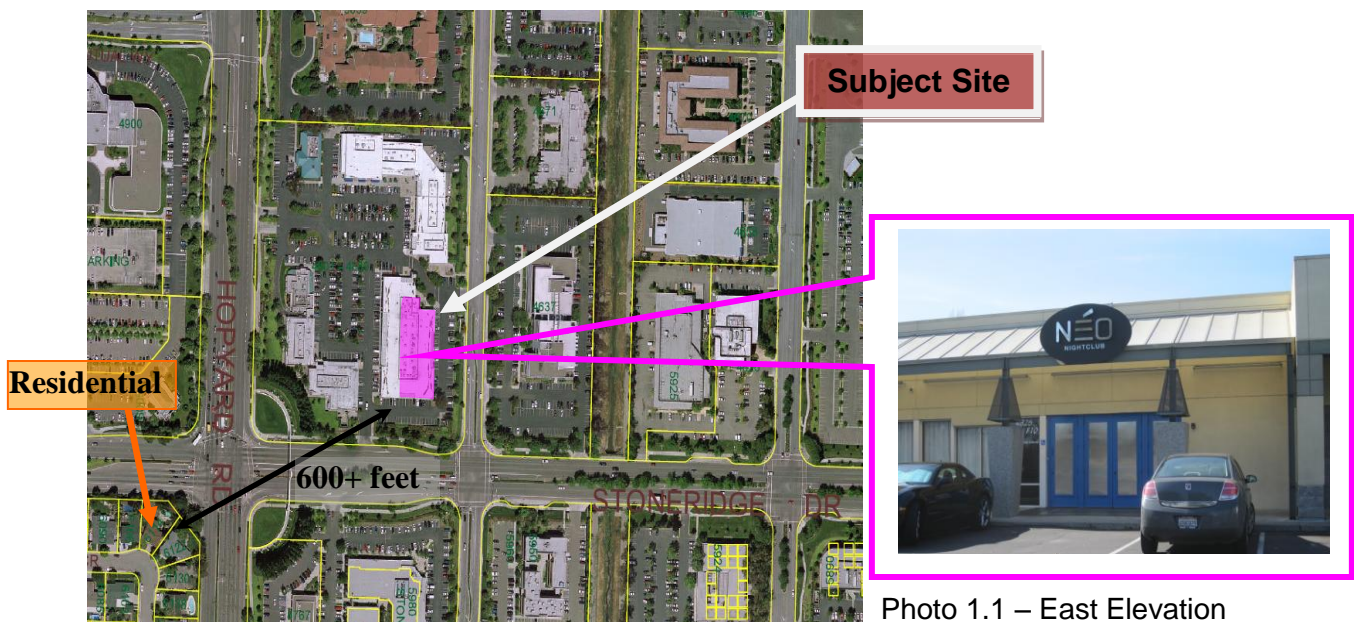


Figure 1.1 – Vicinity Map

Photo 1.1 – East Elevation and Entry Doors

The subject site contains tenants such as: AppleOne, Callahan Tile & Stone, Chili's, City Dry Clean, Eddie Papa's, Fast Frame, Gateway Beauty Salon, Gateway Dental Care, Golden Apple Learning Store, Hacienda Park Optometry, Hertz, Huntington Learning Center, Kelly-Moore Paints, Kinder's, La Petite Fleur, Mills, NCAL Computer Source, Professional Nails, Randstad, Round Table Pizza, Tanning Island, The Cheese Steak Shop, The UPS Store, and Ume Sushi. The other uses in the general area are office and hotels. The nearest residential properties are located to the southwest, across Hopyard Road, approximately 600 feet away (Figure 1.1).

Access to the site is provided by four driveway entrances (one off of Hopyard Road, one off of Stoneridge Drive, and two off of Chabot Drive). The existing establishment has direct parking lot access. The front entry of the existing establishment faces Chabot Drive (Photo 1.1) and the secondary entrance faces Stoneridge Drive.



Photo 1.2 – South Elevation (secondary entry)

The main entrance will be the only entrance used during the restaurant use. The secondary doors will only be used to provide a separate entrance point for patrons over 21 years of age during activities that have mixed age groups.

The tenant space contains two bar areas and is divided into two rooms; the “Back Room” is located in the southern portion of the building and contains the smaller bar and seating area, the “Front Room” is located in the northern portion of the tenant space and contains the larger bar and direct access from the main entry doors. The patron restrooms are located within the area designated as the Front Room.

PROJECT DESCRIPTION

The applicant proposes to operate a restaurant and night club that offers events for various age groups. The proposed activities include:

- 21 years old and up Lounge
- 18 years old and up Activities:
- Teen Night
- Business Events
- Special Events
- Happy Hour (drink specials and activities)

The applicant proposes to modify the interior floor plan to accommodate a full service restaurant establishment with seating for 181 patrons during the restaurant use. Table seating would be provided for patrons during the restaurant use (until 10:00pm), but the majority of the tables would be removed in the late evening (after 10:00pm) to accommodate the following activities:

21 & up Lounge: (21 & up) Patrons that are 21 years of age and older would utilize the facility. Live bands and DJ music performed on a portable stage would be played and alcohol would be served throughout the entire facility.

18 & Up Nights: The operator proposes to play Country music or Salsa music on 18 & Up Nights. (Note that the City does not regulate music so the operator may change the music selections). Patrons that are 18 years or older but less than 21 years of age would use the main entrance and would be allowed to use the “front room” (larger

room) of the establishment. The “front room” would sell only non-alcoholic beverages served in manufacturer’s cans or bottles. The “front room” would be separated from the “back room” (smaller room) by a security check point and patrons that are under age 21 may not enter the “back room”. Patrons that are 21 years of age and older would use a separate entrance, the secondary entrance, to enter the facility and would be stamped with a black light to show that they are 21 or older. Alcohol service would only be provided in the “back room” and would be served in plastic cups for easy monitoring. Patrons that are over 21 years of age may access the entire facility, including the “front room” but they would not be able to take alcoholic beverages past the security checkpoints to the “front room” or into the restrooms. Restrooms will be shared by the patrons and a condition of approval requires the operator to have a restroom attendant in each restroom during 18 & up Nights.

Teen Night: (18 & below) Music would be played for patrons ranging in age from 14 to 18 years old. All alcohol would be removed from the bar areas and pad locked in coolers or the back storage area. No one over the age of 18 would be allowed in the facility, except for facility staff and guardians of a patron. Teen Nights would only occur on Sunday nights during the summer months and on holiday evenings throughout the year when there is no school the next day.

Business Events: (All ages) Businesses may rent the facility to conduct industry mixers, trainings, corporate events, or meetings. The proposed hours for this activity would begin as early as 6:00 am to accommodate the business community.

Special Events: (All ages) Individuals hosting wedding receptions, special occasion celebrations, and various trainings/conferences would be able to rent the facility to hold their event. Security, alcohol service, food service, and music would be provided by the facility, but paid for by the event host. The event host and facility operator would agree to what services are desired/needed and what those services cost.

Happy Hour (drink specials and activities):

Full Happy Hour (drink specials)

While the facility is operating as a restaurant, the facility would offer discounted drink specials along with Happy Hour activities listed below.

Happy Hour Activities

The facility will offer Happy Hour activities beyond the Full Happy Hour discounted drink specials time. Happy Hour activities include live entertainment, such as comedy shows, live music performances, and dance performances. All entertainment would be conducted on a portable stage.

Please refer to Exhibit B (Activity Matrix) for more information regarding the proposed frequency and schedule of the proposed activities.

The operator, as conditioned, would provide a calendar for Special Events, Business Events, and teen nights to the Police Department 30 days prior to the first day of each

month and any amendments to the activities calendar is required to be submitted to the Pleasanton Police Department at least one week before the event takes place. The calendar of activities will enable the City's Police Department to review security plans for each event and staff police patrols accordingly.

The facility would provide a full service menu for the hours of 11:30am to 10:00pm; food for the Special Events and Business Events would be provided on a contract basis; and during the evening activities, when the facility operates as a night club for the various ages, a taco bar would be offered.

Restroom access would be provided at all times for all age groups. There would be a security check at each of the passageways (one along the east side and one along the west side of the back room) between the Back Room (small bar area) and the Front Room (the large bar area), where the restrooms are located. The security check would ensure that no alcoholic beverages pass beyond where 21 years of age and older patrons are served alcohol. The security check point would allow for older patrons to use the restroom facilities during the underage activities without creating issues regarding sharing drinks with underage patrons. The recommended conditions of approval require a bathroom attendant, in addition to the required security staff, to be stationed in each restroom to monitor the activities during events/activities that have patrons under the age of 21.

The facility also contains separate restroom facilities for the employees. The employee restrooms are located by the kitchen and office area off of a corridor with an access-restricted door.

Please refer to the applicant's written narrative, activity matrix, and floor plans for a detailed description of the facility and its layout (Exhibit B).

ANALYSIS

Conditional uses are uses that, by their nature, require individual review to ensure that impacts associated with their use will be minimal. Conditional Use Permits may be subject to appropriate conditions to ensure that any potential adverse impacts associated with the use will be mitigated. Additionally, the conditions of approval for this application have been composed to address possible conflicts with surrounding land uses. These conditions aim to balance the request of the applicant with the public health, safety, and welfare of the neighboring area.

The discussion below provides an analysis of the proposed Conditional Use permit.

Land Use

The existing use is located in a PUD (Planned Unit Development) that allows this type of use subject to a Conditional Use Permit. With this Conditional Use Permit application, the Planning Division and Police Department are recommending conditions to ensure that peace and order are achieved at this location with the new operation.

Therefore, staff has recommended conditions of approval that address employee alcohol training, security, beverage pricing, etc.

One of the primary questions in reviewing a Conditional Use Permit application is what effect the proposed application will have on the surrounding uses. The surrounding uses include office, retail, and restaurant uses. There are unlikely to be any conflicts with the surrounding retail uses because the hours of operation of the night club do not overlap with those uses. Additionally, the existing night club and restaurants have operated as complimentary uses with some patrons opting to enjoy their dinner at the neighboring restaurants before entering the night club for the evening. Therefore, staff believes that the proposed establishment will not create any adverse impacts on the surrounding uses. Furthermore, the subject site does not immediately abut residential property, reducing potential noise impacts on the residences. Therefore, from a land use perspective, staff finds the proposed establishment to be acceptable, as conditioned.

Occupancy

The UP-90-43 staff report noted that the “facility would accommodate a maximum total of 643 people” and the prior night club operations were approved up to 812 total persons (employees and patrons) before the City Council and Planning Commission reduced it to 300 patrons (not including employees). The proposed night club floor plan accommodates approximately 799 people, based on the occupant load capacity calculated by the project Architect. However, the Chief of Police has indicated that the public safety personnel staffing levels can only support an occupancy of 500 (patrons and employees combined) at this establishment. Additionally, the activity matrix and project narrative indicates that the establishment will have a maximum occupancy of 500 persons. .

The operator is required to precisely monitor the occupancy of the establishment. Patrons would be counted by a manually operated “clicker” so that the occupancy of the facility can be obtained within a matter of a few minutes.

Staff believes that, as conditioned, the proposed occupancy will not produce any conflicts with the surrounding uses.

Noise

The proposed application must be in accord with the objectives of the Zoning Ordinance. One of those objectives is to “promote the stability of existing land uses that conform with the General Plan and to protect them from inharmonious influences and harmful intrusions.” As proposed and conditioned, staff believes that noise from the dance club would be minimal and would not negatively impact uses located adjacent to the subject site.

The entry doors will be the only access points to the building during business hours. The existing doors already operate with self-closing mechanisms. The other doors will remain closed during business hours and are for emergency exit use only, further limiting potential noise impacts to surrounding tenants and properties. The use will be required to comply with the City's noise regulations that are designed to protect the peace, health, safety, and welfare of the citizens. Additionally, staff has recommended conditions of approval that will require the operator to ensure that patrons are orderly when arriving/departing the building and parking areas. Therefore, staff does not expect the proposed use would be disruptive to adjacent properties.

Parking

There are a total of 432 on-site parking spaces in Gateway Square Shopping Center. The overall parking ratio for the center is 1 parking space for every 205 square feet of floor area. Applying this parking ratio to the operator's 10,746-square-foot tenant space, 53 parking spaces would theoretically be allocated to the tenant space. However, there are no assigned parking spaces in this development.

The Municipal Code parking standards for restaurants and bars requires one parking space per 200 square feet of gross floor area or one space for every three seats, whichever is greater. Based on this standard, 54 parking spaces would be required using the size of the tenant space, but 60 parking spaces would be required for the restaurant use based on the number of seats and only 36 parking spaces would be required based on the number of seats for the night club use (181 seats for the restaurant use and 109 seats for the night club use). According to the Municipal Code standards the greatest parking demand would be 60 parking spaces. In addition, the Hacienda Design Guidelines require one parking space per 200 square feet of gross floor area for commercial/retail uses, which is what was used to determine the parking requirements when this shopping center was built.

Staff believes that the restaurant parking demand shortfall of 7 parking spaces will be accommodated on-site without impact to the existing tenants as the parking lot contains sufficient parking (432 parking spaces) to serve all tenants during the restaurant hours. With regard to the night club operations, the proposed maximum occupancy of 500 occupants (patrons and employees) leads staff to believe that the parking demand for the use would be much higher than the Municipal Code and Hacienda parking requirements as calculated above. However, staff believes that the parking demand for the night club operations would be alleviated by patrons carpooling to the establishment.

While it is difficult to determine the exact parking demand created by the proposed establishment, the operator has indicated that the facility will be operated by 50 employees at the busiest time, and staff believes the maximum parking demand would be around 250 spaces for the night club patrons, depending on the number of people carpooling to the site (approximately 167 parking spaces would be used if there were three persons per vehicle and approximately 250 spaces would be used if there were

two persons per vehicle). Staff notes that these are maximum parking demand estimates and that the maximum number of employees and patrons is unlikely to be present on a consistent basis and would most likely be limited to Friday and Saturday nights. Staff has also considered other factors in its parking analysis, such as the parking demands of the other uses, the hours of operation, and multiple destination vehicle trips.

The night club would experience peak parking demands at 10:00pm. Since the majority of the other uses in the complex are closed by 6:00pm, staff does not believe that there will be any parking conflicts with the adjacent tenants. The parking lot provides ample parking to serve the night club and the existing restaurants that are open until 10:00pm. It is also conceivable that a single vehicle could be used to transport patrons to the restaurant (or another restaurant on the same site) for dinner and then those same patrons could then go to the night club for their evening entertainment (i.e. one parking space would be serving two uses).

Additionally, staff has talked to James Paxson, General Manager of Hacienda Owners Association, regarding the parking situation for the current night club and he has indicated that even when the facility had an occupancy of 812 there were no parking conflicts with the existing establishment. Therefore, he does not foresee any conflicts with the proposed business. Staff is recommending a condition of approval requiring the applicant to encourage its staff to utilize the areas of the parking lot that are less used by the patrons. This would allow patrons to park as close to the establishment as possible, thereby reducing the potential for parking conflicts with patrons of the other restaurants and businesses.

Based on the parking demands of the other uses, the hours of operation for the night club operations, and the parking history at the site with similar uses, staff believes that the parking availability is sufficient to accommodate the proposed use and the surrounding uses in the complex. However, should parking-related problems occur, staff has included a condition of approval which allows the Director of Community Development to refer the use permit back to the Planning Commission for possible mitigation measures.

PUBLIC NOTICE

Notices regarding the proposed application and related public hearing were mailed to property owners and tenants within 1,000 feet of the subject property. As of the publication of this staff report, staff has not received comments pertaining to this application. Staff has provided the noticing map as Exhibit F for the Commission's reference.

HACIENDA OWNERS ASSOCIATION

James Paxson, General Manager of Hacienda Owners Association, has reviewed the application for the proposed use and found that it is in substantial compliance with Hacienda's guidelines set forth in the CC&Rs (Exhibit C). James Paxson has stated to

staff that based on the space allocation and business practice, the Association believes that the use, parking, and traffic are compatible with the current approved uses within the subject area and, thereby, approved the proposed use.

FINDINGS

The Planning Commission must make the following findings prior to granting the use permit:

A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinances and the purpose of the district in which the site is located.

The zoning ordinance endeavors to foster a harmonious, convenient, and workable relationship among land uses, while protecting land uses from inharmonious influences and harmful intrusions; and insuring that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. As conditioned, staff believes the proposed establishment would be consistent with these objectives.

The site of the subject use is located within the Hacienda Business Park's CPD (Retail/Commercial/Financial Planning District), which permits the uses of the City's C-C (Central Commercial) and C-F (Freeway Commercial) districts. Restaurants are permitted uses and bars, including entertainment and dancing, are conditionally permitted uses in the C-C and C-F districts and are in accordance with the purposes of the zoning district to provide locations to offer commodities and services to the residents of Pleasanton and surrounding areas. The proposed conditions of approval for the project give the City appropriate controls to ensure that the use does not have any negative impacts on surrounding businesses and properties. The proposed use permit is, therefore, in accordance with the objectives of the zoning district in which the site is located, and staff believes this finding can be made.

B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

As conditioned, staff finds that the proposal will not have a detrimental impact to the public health, safety, or welfare, or be materially injurious to the properties or improvements in the vicinity. In particular, conditions require adherence to hours of operation and parking to mitigate for possible impacts to adjacent uses. Staff also believes the operator will control noise, loitering, or other nuisances that would otherwise occur within the parking lot. Further, if a conflict arises with the operation of the business, a condition of approval allows the Director of Community Development to determine if the proposal needs to return to the Planning Commission for further consideration or additional mitigation measures. Therefore, staff believes that this finding can be made.

C. That the proposed conditional use will comply with each of the applicable provisions of the Municipal Code which apply to Conditional Uses.

The Pleasanton Municipal Code states that because of the unusual or uncharacteristic nature of some proposed land uses, conditional uses require special consideration so that they may be located properly with respect to their effects on surrounding properties. The proposed use has conditions of approval to ensure that the applicable provisions of the Pleasanton Municipal Code are met and that adjacent businesses and residences will not be adversely impacted. Therefore, staff believes that this finding can be made.

ENVIRONMENTAL ASSESSMENT

This project is categorically exempt from environmental review pursuant to California Environmental Quality Act Guidelines, Section 15301, Existing Facilities, Class 1 which allows the operation of a uses, permitted or conditionally permitted, within an existing building. Therefore, no environmental document accompanies this report.

CONCLUSION

Staff believes that the required findings for the proposal can be met. Additionally, staff believes that the proposed use, as conditioned, will be compatible with the surrounding uses. The recommended conditions of approval have been carefully considered and constructed to address potential conflicts with adjacent land uses and to maintain the safety and general welfare of the surrounding area.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve P12-1821 by taking the following actions:

1. Make the required conditional use findings as described in the staff report; and
2. Approve P12-1821 subject to the conditions listed in Exhibit A.

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