



PLANNING COMMISSION MEETING MINUTES

City Council Chamber
200 Old Bernal Avenue, Pleasanton, CA 94566

APPROVED

Wednesday, January 12, 2011

(Staff has reviewed the proposed changes against the recorded proceedings and confirms that these Minutes are accurate.)

CALL TO ORDER

The Planning Commission Regular Meeting of January 12, 2011, was called to order at 7:00 p.m. by Chair Kathy Narum.

1. ROLL CALL

Staff Members Present: Brian Dolan , Director of Community Development; Julie Harryman , Assistant City Attorney; Janice Stern, Planning Manager; Steve Otto, Senior Planner; Natalie Amos, Associate Planner; Jenny Soo, Associate Planner; Acting Police Chief Eric Finn; Police Lt. Jeff Bretzing; and Maria L. Hoey, Recording Secretary

Commissioners Present: Chair Kathy Narum, and Commissioners Phil Blank, Greg O'Connor, Arne Olson, Jennifer Pearce, and Jerry Pentin

Commissioners Absent: None

2. APPROVAL OF MINUTES

a. December 8, 2010

Commissioner Blank requested that the third and fourth sentences of the first paragraph on page 8 be modified to read as follows: "He added that there is not enough information for him to support the project and that there appears to be a lot of homes. He stated that he would also want to see detailed, high quality visuals, however, he is ~~not suggesting this to~~ suggested that the applicant wait until he comes forward with a formal application because of the extraordinary expense that would entail."

Commissioner Pearce requested that the sentence in the fourth paragraph under Matters Initiated by Commission Members on page 19 be modified to read as follows: “Commissioner Pearce inquired when the Council sets its priorities.”

Commissioner O’Connor requested that the first sentence of the third paragraph on page 4 be modified to read as follows: “Commissioner O’Connor referred to the former Austin Dairy property and believed that it was approved for eight homes, ~~plus~~ including the existing residence.”

Commissioner O’Connor further requested that the sentence in the second paragraph of page 10 be modified to read as follows: “Commissioner O’Connor stated there are ways to ensure the roof is sealed with some material that may not be warranted, such as bituthene or a similar type product that, with this application, may be required to avoid prevent water from ~~flowing back~~ back-flowing into the home; however, in a case where a material is not warranted, something can be done on the underlayment to keep it from failing.”

**Commissioner Pentin moved to approve the Minutes of December 8, 2010 meeting, as corrected.
Commissioner Blank seconded the motion.**

ROLL CALL VOTE:

**AYES: Commissioners Blank, Narum, O’Connor, Olson, Pearce, and Pentin.
NOES: None.
ABSTAIN: None.
RECUSED: None.
ABSENT: None.**

The Minutes of the December 8, 2010 meeting were approved, as amended.

3. MEETING OPEN FOR ANY MEMBER OF THE AUDIENCE TO ADDRESS THE PLANNING COMMISSION ON ANY ITEM WHICH IS NOT ALREADY ON THE AGENDA

There were no members of the audience wishing to address the Planning Commission.

4. REVISIONS AND OMISSIONS TO THE AGENDA

There were no revisions or omissions to the Agenda.

5. CONSENT CALENDAR

- a. **PDR-928, Stanley Center, LLC**
Application for Design Review approval to construct four new commercial buildings totaling approximately 31,326 square feet on two vacant lots located at 3590 and 3598 Stanley Boulevard and 3595 and 3597 Utah Street, in the Stanley Business Park. Zoning for the property is PUD-C (Planned Unit Development – Commercial) District.

Commissioner Pentin moved to recommend approval of Case PDR-928, subject to the Conditions of Approval listed in Exhibit A of the staff report. Commissioner Olson seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Narum, O'Connor, Olson, Pearce, and Pentin.
NOES: None.
ABSTAIN: None.
RECUSED: Commissioner Blank
ABSENT: None.

Resolution No. PC-2011-01 recommending approval of PDR-928 was entered and approved as motioned.

6. PUBLIC HEARINGS AND OTHER MATTERS

- a. **PCUP-286, El Balazo Restaurant**
Application to modify the approved Conditional Use Permit (PCUP-132) for the operation of El Balazo Restaurant at 5331 Hopyard Road to allow live music and entertainment. Zoning for the property is PUD-C (Planned Unit Development – Commercial) District.

Jenny Soo presented the staff report and described the scope, layout, and key elements of the project.

Commissioner Blank noted that the original approval included appetizers and a full menu with live music until midnight. He added that he did not see anything in this application that is in conflict with the original approval.

Ms. Soo clarified that the live music in the original 2005 approval was solely for a mariachi band to play occasionally for holidays or special events, whereas this application proposes a live band to play once a week and includes a karaoke machine.

Commissioner Blank noted that he did not see the level of specificity of the original conditions in the proposed conditions, such that a mariachi band could feasibly play every night.

Ms. Stern referred to a 2007 letter by then Planning Director Jerry Iserson repealing the DJ's and live bands on the premises.

Commissioner Blank inquired whether Mr. Iserson had the authority to change the Conditions of Approval put in place by the Planning Commission.

Mr. Dolan replied that technically, Mr. Iserson did not have that authority; however, because there were so many problems with the restaurant then, Mr. Iserson spoke with the operators and imposed a new set of more stringent rules, with the understanding that if the operators did not agree to and comply with these new rules, the use permit would be brought back to the Planning Commission.

Commissioner Blank noted that the original conditions state that the Planning Commission may add conditions or revoke the conditional use permit if necessary. He noted that the new language did not include revocation of the original use permit. He inquired why this is not written in the proposed conditions and indicated that he would like the original language to be included in the proposed conditions.

Ms. Stern noted that Condition No. 4 includes the revocation of the permit for live music and that Condition No. 16 indicates that all conditions of PCUP-132 shall remain in full force and effect.

Commissioner Blank expressed concern that Condition No. 13 modifies the requirement to go back to the Planning Commission.

Ms. Harryman clarified that Condition No. 16 states that all prior conditions remain effective and that the language of revocation stands as noted in Condition No. 9 of the original Conditions of Approval.

Commissioner Pearce noted that the last sentence of Condition No. 4 states that the item may be returned to the Planning Commission for review and action, which includes revocation of the use permit.

Commissioner Pentin stated that he believes Condition No. 13 covers everything, including all factors involving impacts as well as revocation.

Commissioner Blank asked for the definition of a "patrol check."

Acting Police Chief Finn stated that Pleasanton police officers routinely do patrol checks, and these include a variety of things such as driving through a parking lot, observing activity and looking for improper behavior, visiting with patrons in the parking lot, meeting with the business owners and security guards, walking through the

bar/restaurant, looking for intoxicated individuals, and taking enforcement action as necessary.

Commissioner Blank noted from the Police Report that there were 110 patrol checks in 2005, 150 patrol checks in 2006, and only 12 in 2007. He inquired what would cause such a dramatic decrease.

Acting Chief Finn replied that patrol checks are commensurate with activity and number of calls received, and there was a significant decrease in activity at the establishment.

Commissioner Pearce inquired whether the number of calls and level of activity referred to complaints or the number of people at the establishment.

Acting Chief Finn replied that it could be all of the above. He explained that patrol checks could drive additional checks depending on activities that go on, such as fights and disorderly behavior.

Commissioner Pearce inquired if having less patrons at the establishment would likely drive down the number of patrol checks.

Acting Chief Finn said yes.

Commissioner Blank noted the information relating to a traffic stop and inquired whether this was associated with this establishment or the parking lot.

Acting Chief Finn replied that the City is divided into various reporting districts or geographical areas, and police officers can draw information from these districts through their computer-automated dispatch. He clarified that traffic stops that occur within that district cannot, therefore, be attributed specifically to El Balazo Restaurant.

Commissioner Blank requested clarification that certain disturbances such as intoxication and patrol checks generated based upon the specific address of the establishment are specific to El Balazo Restaurant.

Acting Chief Finn said yes.

Commissioner Olson indicated that the staff packet includes an email from the owner of Burger King dated earlier this month, indicating that there continues to be a problem with people partying and making a mess in the Burger King parking area. He inquired how a call to the police from the Burger King restaurant would be classified on the list.

Acting Chief Finn replied that it would be classified as a "request for patrol check," and if any specific address were given, the disturbance would be attributed to that specific address. He explained, however, that because there are a number of commercial establishments within that parking area, any number of those types of incidents that would occur in Burger King's vicinity could be attributed to any of the establishments

within that area, including the hotel and the saloon. He added that the police would then have to go there and investigate the matter.

Commissioner Pentin inquired whether the same ten traffic stops would be included on a traffic report for the hotel.

Acting Chief Finn replied that he would have to talk with the person who ran the report; however, based on the location of the reporting district, the information could also be relative to the hotel.

Commissioner O'Connor asked Acting Chief Finn for his opinion regarding allowing music on Friday nights, based upon his knowledge of the history of this establishment since 2005.

Acting Chief Finn replied that Mr. Dolan, retired Police Chief Mike Fraser, and he met with the ownership a few months ago and had a candid conversation. He stated that, given the discussions and the guidelines set forth in a document, the City has leverage in that the use permit may be revoked in the future if the conditions were violated. He indicated that given the dialogue and restrictions, he thinks this is an appropriate measure and is worthy of another opportunity to increase business in the community, offer an increase in City sales tax revenue, and allow the business owner to have a thriving business, given the restaurant owner's level of benevolence based on his compliance with all previous recommendations and restrictions for over a three-year period.

THE PUBLIC HEARING WAS OPENED.

Marino Sandoval, applicant, stated that he feels his business deserves this second opportunity, given that they have proven themselves in the last three years in terms of complying with restrictions and that they intend to continue in this manner.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Blank moved to approve Case PCUP-286, subject to the Conditions of Approval listed in Exhibit A, as amended by the modifications listed in the staff memorandum.

Commissioner Pentin seconded the motion.

Commissioner Blank noted that the police report was impressive. He stated that he visited the restaurant about six months ago and found a completely different environment. He noted that the police report was impressive. He congratulated Mr. Sandoval for a job well done and wished him success.

Commissioner Olson stated that he is not concerned about the music but rather with over-indulgence in alcohol. He referred to the Burger King email, noting that the situation continues where apparently people are drinking too much. He indicated that

while he is normally very business-friendly, he said he will not support the motion because there has been a pattern of non-compliance. He added that people in the community have approached him on the matter in a negative way, and he is not convinced the City would be able to monitor the situation correctly and to bring it back to the Commission on a timely basis if the requirements are not adhered to.

Commissioner Blank noted that it took two years for the restaurant to get to this point. He stated that should the data indicate there is a problem, he would hope that staff would not wait two years to return it to the Commission.

Mr. Dolan stated that everyone at the meeting that Acting Chief Finn referred to, particularly the business owner, understood very clearly that the restaurant is on a very short leash.

Commissioner Pearce acknowledged Commissioner Olson's comments and stated that she is willing to give the applicants a second chance, given the proposed restrictions. She noted that the police log has an impressive decrease, but the property owner has also indicated that there has been a decrease in patronage. She indicated that she cannot quite correlate all the decrease to the more restrictive provisions because the significant decrease could probably be attributed to less people at the establishment. She stated that she believes live music will bring more people and that she is glad there is a tight shift; however, she would hate to see this spiral out and would like to have an update in 6 to 12 months.

Commissioner Blank stated that he would like to have Commission unanimity and asked Commissioner Olson if he would support the project if the motion were amended to require staff to present a report to the Commission every three months.

Commissioner Olson replied that it would be a good step to take.

Commissioner Blank proposed an amendment to his motion to require staff to provide a status report to the Commission on a quarterly basis for the next twelve months.

Commissioner Pentin accepted the amendment.

Acting Police Chief Finn stated that reporting quarterly would require a significant amount of work but that the Police Department would be willing to work with the Commission to track calls for service, provide information, and coordinate monitoring with the Community Development Department staff on a quarterly basis.

Commissioner Pearce commented that she believes there would be an increase in patronage with alcohol service and now live music. She stated that she believes it is part of the Commission's responsibility to the community that has this type of establishment to work with staff along these lines. She added that a police log would not be necessary and that a simple conversation with the Director of Community Development would suffice.

Acting Chief Finn stated that the Police Department would continue to monitor the situation and that if they see flags, the Director of Community Development would be the first to hear. He added that he would be happy to bring the matter forward and act quickly.

Commissioner Olson requested confirmation that this would be done quarterly.

Acting Chief Finn said yes.

Commissioner Blank requested staff to calendar these report.

THE PUBLIC HEARING WAS RE-OPENED.

Mr. Sandoval stated that the commercial area is located off of the freeway and that El Balazo is not the only restaurant in the complex; there is also Burger King, which is open 24 hours and draws people from everywhere who come during the late hours to eat. He noted that the problems that have occurred are not just from El Balazo and that he has also found Burger King debris in his parking lot as well as baby diapers from SuperFranks. He added, however, that he does not complain about the adjacent businesses as they all share the impacts of the nature of the location; hence, he does not think it is fair to point a finger at him for issues that arise in the area.

THE PUBLIC HEARING WAS CLOSED.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, Olson, Pearce, and Pentin
NOES: None.
ABSTAIN: None.
ABSENT: None.

Resolution No. PC-2011-02 recommending approval of PCUP-286 was entered and approved, as motioned.

7. MATTERS INITIATED BY COMMISSION MEMBERS

Tommy T's

Commissioner O'Connor noted that on January 2, 2011, the truck with its flashing lights and LED screens was parked once again at Tommy T's and requested that Code Enforcement visit the establishment.

24-Hour Fitness

Commissioner Pearce noted that the new 24-Hour Fitness has just opened, and she is getting calls from the community regarding circulation and parking, especially during BART hours. She noted that neighboring businesses have installed “No 24-Hour Fitness Parking” signs and that near accidents have occurred from vehicles coming out of the BART station.

Commissioner Pentin indicated that he is a member of 24-Hour Fitness and has received similar inquiries. He noted that Black Tie shuttles were working last night and assumed that the business is working out something with parking lot owners.

Mr. Dolan stated that staff has heard similar comments and that 24-Hour Fitness has been cooperative in working with James Paxson, Executive Director of Hacienda Business Park Owners Association, and others to address the situation. Mr. Dolan continued that he is not necessarily convinced that this will not work itself out as the holiday season has just ended, and activity at the gym for the coming month is part of that cultural phenomenon. He added that 24-Hour Fitness also ran a promotion inviting members from other 24-Hour Fitness clubs to come and see the new, state-of-the-art facility. He expressed disappointment that he is unable to report any success at this time but indicated that staff is working very diligently and is very close to arriving at an agreement with neighboring establishments to share parking. He stated that he believes this would be less of an issue as the months go by and is optimistic that the situation would come to a happy ending.

Commissioner Pearce expressed concern regarding circulation with vehicles turning into 24-Hour Fitness with an unprotected turn coming from BART.

Mr. Dolan stated that he would look into this.

Commissioner Pentin stated that he, along with most people, turn right on Willow Road. He cited a dangerous situation in which on two different occasions, a bicyclist was riding on the sidewalk against the traffic. He noted that drivers typically only look to the left when turning right and run the risk of hitting these bicyclists. He suggested that a sign be installed for drivers to look both ways before proceeding.

Commissioner Pearce requested that the Traffic Engineer stay at the intersection during the afternoon peak hours to observe parking and circulation patterns.

Reproduction of Documents

Noting the expense of reprinting the General Plan, Commissioner Blank stated that he spoke with Ms. Stern proposing that staff look into producing the General Plan on a CD, both as one complete document and as separate chapters for each Element.

Historic Preservation Ordinance

Commissioner Blank thanked staff for the Historic Preservation packet distributed to the Commissioners.

Commissioner Olson stated that the Commissioners have received a letter from Linda Garbarino, President of the Pleasanton Heritage Association, regarding historic residential guidelines. He noted that on page 3 of her letter, Ms. Garbarino references the San Diego Mission Hills Historic Guidelines. Commissioner Olson stated that he googled these guidelines and found a very well done, 57-page document that outlines historic neighborhood requirements. He encouraged the Commissioners to continue to push the ordinance along in whatever manner they can in order to produce a document they could forward to the City Council.

Mr. Dolan stated that this was his intent and apologized that the item did not get agendized. He listed the documents that staff had put together from relevant sections of the General Plan; the Historic Preservation chapter and several pages from the Design and Beautification chapter of the Downtown Specific Plan; limited sections of the Downtown Design Guidelines; sections from CEQA outlining what the City's guidance is in preparing CEQA documents, along with related documents from the Secretary of the Interior's Standards for Rehabilitation generated at the federal level but adopted by the State of California and becomes the standard of evaluation; and the staff report and draft ordinance from the last time this effort came forward, which were considered but not pursued.

Mr. Dolan indicated that he will continue to proactively look for space on the agenda to talk about these documents, how they are used, what they mean, and how they could be used differently. He noted that there are contradictions but that they are related to one another.

Commissioner Pearce thanked Mr. Dolan for his update and inquired if there are Minutes for the November 28, 2001 meeting.

Mr. Dolan replied that there were and that there are several staff reports as well.

Commissioner Blank agreed with Commissioner Pearce's comments.

Chair Narum inquired if staff could also forward a set of well done guidelines from another city in addition to the San Diego Mission Hills document, and another from a city where the guidelines are not working well, in order to provide a contrast of what has and has not been effective.

Mr. Dolan replied that he had a few in mind.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

a. Future Planning Calendar

Commissioner Pearce inquired when PUD-82, DiDonato, would come before the Commission.

Mr. Dolan replied that the schedule has not been firmed up at this time.

b. Actions of the City Council

No discussion was held or action taken.

c. Actions of the Zoning Administrator

No discussion was held or action taken.

9. COMMUNICATIONS

No discussion was held or action taken.

10. REFERRALS

No discussion was held or action taken.

11. MATTERS FOR COMMISSION'S INFORMATION

No discussion was held or action taken.

12. ADJOURNMENT

Chair Narum adjourned the Planning Commission meeting at 7:52 p.m.

Respectfully,

JANICE STERN
Secretary