



Planning Commission Staff Report

August 25, 2010
Item 5.a.

SUBJECT: PCUP-273

APPLICANT: Diamond Pleasanton Enterprise

PROPERTY OWNER: FFHA Associates

PURPOSE: To modify the approved conditional use permit (UP-90-43) for the operation of Status (formerly Aura Nightclub) to allow an outdoor seating/standing area and to increase the maximum occupancy at the facility.

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

ATTACHMENTS: Exhibit A, Draft Conditions of Approval
Exhibit B, Site Plan/Seating Plan and Narrative
Exhibit C, Outdoor Seating Plan, Table, Chairs, and Barrier Specifications
Exhibit D, Hacienda Business Park Letter of Approval
Exhibit E, Conditions of Approval for UP-90-43
Exhibit F, Security and Training Plan
Exhibit G, Sample Food Menu
Exhibit H, Location Map
Exhibit I, 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 theme dance club with alcohol service, to be operated out of a 10,746-square-foot tenant space. The approved

hours of operation were from 5:00pm to 2:00am, seven days a week with limited food service.

In 2004, the business underwent cosmetic changes to update its look and the name of the business was changed to Aura. While cosmetic changes were made to the facility, it continued to operate as a dance club/bar and no changes were made to the existing use permit. Once granted, Conditional Use Permits run with the land and remain valid during change of ownerships.

Diamond Pleasanton Enterprise, the applicant, is acquiring the existing dance club (Aura, to be renamed to Status) and is proposing to make minor interior modifications that increase the maximum occupancy, add an outdoor patio area with a barrier (case PDR-912, which will be reviewed by staff), and modify condition number 2 of UP-90-43 to allow the side doors to be used for access to the outdoor patio area during business operations. Accordingly, the applicant has applied for a Conditional Use Permit to modify the existing approval to allow the proposed expansions. Conditional Use Permits and modifications of existing Conditional Use Permits require review and action by the Planning Commission and, therefore, this application is before the Planning Commission for its consideration.

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 one-story structure is one of five (5) on-site with a large parking lot (432 spaces) that serves the existing buildings. This is a multi-tenant building with approximately 10,746 square feet of area designated for the existing establishment.

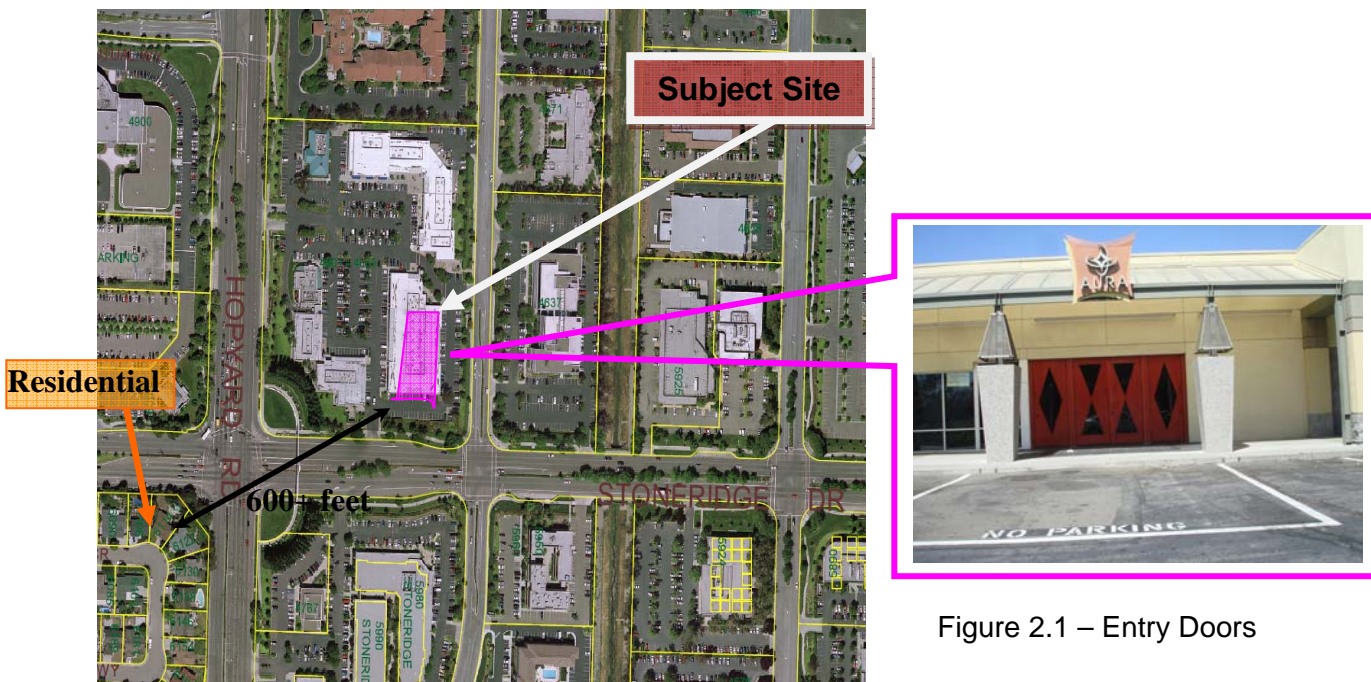


Figure 1.1 – Vicinity Map

Figure 2.1 – Entry Doors

The subject site contains tenants such as: AppleOne, Callahan Tile & Stone, Chili's, City Dry Clean, Diamond Pleasanton Enterprises, 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 (4) driveway entrances (one (1) off of Hopyard Road, one (1) off of Stoneridge Drive, and two (2) off of Chabot Drive). The existing establishment has direct parking lot access. The front entry of the existing establishment faces Chabot Drive (Figure 2.1).

PROJECT DESCRIPTION

The applicant proposes to modify the interior floor plan to accommodate 812 occupants (which is a modification of the approval for UP-90-43 that allowed 643 patrons), establish an outdoor patio area with a barrier (PDR-912) that will accommodate up to 80 people standing (as determined by an architectural calculation) or 12 people seated (Figure 3.1, 4.1, 4.2, and Exhibit C), and to utilize the doors on the southeast portion of the building for



Figure 3.1

access to the outdoor patio (which is a modification of condition number 2 of UP-90-43). The outdoor patio area would be utilized for patrons to consume beverages and/or food if they desired. The outdoor furniture would be removed nightly at 10pm to allow for standing room only.

The proposed outdoor patio area with barrier will be required to meet the requirements of the Americans with Disabilities Act (ADA), including a four-foot unobstructed sidewalk clearance around the barrier and Alcohol Beverage Control (ABC) requirements for beverage service in this area. The barrier is subject to staff-level design review approval and will require a building permit from the Building and Safety Division. The Planning Commission will be notified of staff's action on the barrier on a future Zoning Administrator Action Report.

The following illustrations show the approximate location of the barrier to be installed (Figure 4.1 and 4.2) and a detail of the barrier design and furniture specifications are attached for additional reference (Exhibit C). The barrier will be painted to match the

metal elements (brown) on the building and the applicant has stated that two (2) security personnel will be employed to monitor the outdoor seating area.



Figure 4.1



Figure 4.2

All other criteria of the existing Conditional Use permit would be complied with. Please refer to the applicant's written narrative and floor plan 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 modifications of the existing 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. The existing dance club has been in operation since 1990. According to the Police Department, this establishment has generated calls for service commensurate with the combination of large numbers of people, alcohol service, and late hours. When the existing Conditional Use Permit (UP-90-43) was granted in October of 1990 there were only a limited number of conditions placed on the project and only a few of those conditions dealt with issues of safety and security. With this Conditional Use Permit application, the Planning Division and Police Department have taken the opportunity to fine tune and add recommended conditioning to ensure that peace and order are achieved at this location. Therefore, staff has

recommended conditions of approval that address employee training, security, music selection, and beverage pricing. Additionally, the new owner has stated that they will operate the establishment in a responsible manner.

One of the primary questions in reviewing a modification to a Conditional Use Permit application is what effect the proposed changes 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 do not overlap with the proposed use. Additionally, the existing dance club and restaurants have operated as complimentary uses with many patrons opting to enjoy their dinner at the neighboring restaurants before entering the dance club for the evening. Therefore, staff believes that the existing use with the proposed modifications 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 modifications to the existing use to be acceptable, as conditioned.

Occupancy

The UP-90-43 staff report noted that the “facility would accommodate a maximum total of 643 people.” The applicant stated that the existing layout accommodates approximately 742 people and staff has confirmed this information by reviewing improvement plans that were approved by the Building and Safety Division. With the modifications to the interior seating, the establishment would be able to accommodate 812 occupants (patrons and employees) and the outdoor patio area would accommodate 80 patrons standing or 12 patrons sitting. Though the outdoor patio area accommodates additional patrons, these patrons are already accounted for at the entry of the facility and, therefore, are not considered in the total calculation of the maximum allowed occupancy.

The applicant has indicated that the occupancy of the establishment will be monitored closely. The counting method is based on a system of providing numbered tickets at the time of entry with exiting patrons being counted by a manually operated “clicker.” The applicant has stated that the occupancy of the facility at any given time can be obtained within a matter of a few minutes.

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

Noise

The proposed modifications to the existing Conditional Use permit 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, staff believes that

noise from the dance club would be minimal and would not negatively impact uses located adjacent to the subject site.

The Police Department has indicated that the music selection is one of the main factors in the amount of noise (and public disturbance) complaints that are typically received for this type of establishment. The current music selection is Top 40 mainstream mix. The applicant has stated that they will continue the current music genre and will not be playing Hip Hop as a main music selection.

Furthermore, the entry doors and the doors to the outdoor patio area 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. There will not be any music provided in the outdoor patio area. 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 applicant to be responsible to ensure that patrons are orderly and quiet in the patio area and when arriving/departing the building and parking areas. Therefore, staff does not expect the proposed modifications 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 applicant'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 does not have a parking standard that precisely calculates the parking demand for this use which contains a relatively low number of seats (66) and a high occupancy (812). The Municipal Code parking standards for 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 spaces would be required using the size of the tenant space (only 22 spaces would be required based on the number of seats). The Municipal Code parking standard for dance halls is calculated at a one parking space per 50 square feet of floor area used for dancing. The proposed use would only require 35 spaces based on the 1,823 square feet of dance floor in the establishment. 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.

With a maximum occupancy of 812 occupants, staff believes that the parking demand for the use would be much higher than the Municipal Code and Hacienda parking requirements calculated above. However, staff believes that parking demand would be alleviated by many factors, including patrons carpooling to the facility. While it is difficult

to determine the exact parking demand created by the facility, staff believes the maximum parking demand would be around 270-400 spaces, depending on the number of people carpooling to the site (approximately 270 parking spaces would be used if there were three persons per vehicle and approximately 400 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 patrons is unlikely to be present on a consistent basis and would most likely be limited to weekends.

Due to the shortfall in allotted parking spaces compared to the estimated peak demand for this use, staff considered other factors, such as the parking demands of the other uses, the hours of operation, and multiple designation vehicle trip.

The dance 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 dance 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 for dinner and then those same patrons could then go to the dance 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 dance club and he has indicated that there have been no parking conflicts with the existing establishment and he does not foresee any conflicts with the business expansion. Staff is recommending a condition of approval requiring the applicant to encourage club staff to utilize the areas of the parking lot that are less used by the patrons. This would allow patrons to park as close the dance club as possible, thereby reducing the potential for parking conflicts with patrons of the restaurants.

Therefore, based on the parking demands of the other uses, the hours of operation, and the historic parking situation, 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.

Outdoor Patio Area

The outdoor patio area has been reviewed by the Building and Safety Division and the Police Department. Both reviewing parties are working with the applicant to ensure that all applicable codes will be met. The area enables the operator to offer a controlled area for the patrons to get fresh air or to talk without exiting the facility and loitering in the parking lot area. Given the proximity to the doors, no smoking would be allowed in the patio area per the City's Smoking Ordinance; the applicant has been made aware of this restriction.

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 I for the Commissions 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 D). 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 modifications to the existing establishment would be consistent with these objectives. The dance club establishment has been a compatible use with the surrounding businesses and staff believes that the expansion to the subject site would also be consistent with the existing business operations.

The site of the subject use is located within the Hacienda Business Parks' CPD (Retail/Commercial/Financial Planned District), which permits the uses of the City's C-C (Central Commercial) and C-F (Freeway Commercial) districts. 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 modification to the 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. The new business owner has assured staff that they will work proactively to ensure that all patrons behave in an orderly manner. Staff also believes the outdoor patio area will enable the establishment to 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. The existing dance club establishment has provided a social benefit to the community. 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

Based on the analysis of this staff report, 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 PCUP-273 by taking the following actions:

1. Make the required conditional use findings as described in the staff report; and
2. Approve PCUP-273 subject to the conditions listed in Exhibit A.

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