



Planning Commission Staff Report

June 14, 2006
Item 5.a.

SUBJECT: PCUP-163

APPLICANT: Gayle Thomas

PROPERTY OWNER: Gayle Thomas

PURPOSE: Application for conditional use permit approval to establish a comedy club with a restaurant and bar (Tommy T's Comedy Club and Restaurant) to be located at 5104 Hopyard Road.

GENERAL PLAN: Retail, Highway, and Service Commercial; Business and Professional Offices

ZONING: Zoning for the property is Freeway Commercial (C-F) District.

LOCATION: 5104 Hopyard Road

ATTACHMENTS:

1. Location Map
2. Exhibit "A," Written Narrative and Response Letter, Site Plan, Floor Plans, and Sample Menu
3. Exhibit "B," Staff Recommended Conditions of Approval

I. BACKGROUND

Tommy T's Comedy Club and Restaurant has been in operation throughout the Bay Area for more than 30 years. Prior locations have included San Leandro, Concord, Hayward, and San Ramon. The applicant has purchased the 5104 Hopyard Road property, formerly occupied by the Hungry Hunter Restaurant, and wishes to operate its comedy club, which includes a restaurant and bar. The City's Municipal Code does not specifically address comedy clubs. Since the comedy club would contain a bar and serve food, staff believes that the comedy club use is analogous to a bar/nightclub or a restaurant with a bar in terms of indoor and outdoor activities, traffic, parking demand, noise levels, tenant improvements, etc. Bars are

conditionally allowed uses in the C-F Zoning District. The applicant has applied for a conditional use permit in conformance with this determination.

II. SITE DESCRIPTION

The subject property is approximately 1.2-acres in area and, although it has a Hopyard Road address, is located on the south side of Owens Drive, near the intersection of Hopyard Road and Owens Drive.



Front and Street Side of the Building

Rear of the Building and Parking Lot

The project site is located in an area of commercial and office uses. The property's C-F (Freeway Commercial) zoning is a result of its close proximity to the I-580/Hopyard Road interchange. The property is bordered on the south by Motel 6, on the west by an office building, and on the east by a Chevron gas station. Denny's Restaurant and La-Z-Boy furniture store are located to the north, across Owens Drive. The nearest residences are located approximately 2,260 feet away from the subject site, in the Val Vista Neighborhood.

III. PROPOSED PROJECT

The comedy club would occupy the entire 6,531-square-foot, two-story building. The business would be open from 11:00 a.m. to 1:30 a.m., seven days a week. There would be one or two comedy shows six nights a week (Tuesday – Sunday): Tuesdays through Thursdays and Sundays, there would be one show starting at 8:00 p.m.; and Fridays and Saturdays, there would be two shows starting at 8:00 p.m. and 10:30 p.m. Comedy shows typically would last about 1½ hours. The applicant would serve lunch and dinner (see attached menu) and would have a full-service bar. Dinner would be served until 10:00 p.m., with appetizers available until closing. Comedy show tickets would range in price from \$15.00 to \$50.00, depending on the performer.

Food items would range in price from \$8.00 for appetizers to \$22.00 for dinners. Alcoholic beverages would range in price from \$4.50 to \$7.00 and non-alcoholic drinks would be priced at \$3.00. “Happy hour” would be limited to 4:00 p.m. to 6:00 p.m., Monday through Friday. Alcoholic beverages would be discounted by \$1.00 during “happy hour.” There would be a two-item minimum during shows, consisting of either two drinks (alcohol or soft drink) or one drink and one food item.

A seating capacity of up to 250 seats is proposed. The proposed floor plan shows seating for 247 customers inside: 177 downstairs and 70 upstairs [*staff notes that the seating arrangement specified in the narrative was later updated as shown on the floor plan*]. A maximum of 15 employees would be on duty during the peak shift. Low-level recorded music would normally be played inside, except during comedy shows. There would be no live bands, disc jockey (DJ) music, or dancing.

Proposed interior tenant improvements would be limited to creating a stage and relocating one of the staircases to provide better viewing of the stage. Regarding exterior improvements, the applicant has recently replaced the roof and various plant materials, and has submitted a design review application to repaint and stucco the exterior of the building and install new signage.

Please see the attached written narrative for additional information on the proposed use.

IV. ANALYSIS

Bars are conditionally permitted uses in the C-F district. Conditional uses are uses that, by their nature, require individual review to ensure that impacts associated with their use will be regulated and minimal. Conditional use permits may be subject to appropriate conditions to ensure that any potential adverse impacts associated with the use will be mitigated.

Land Use

One of the primary concerns in reviewing a conditional use permit application is the effect of a proposed use on surrounding uses. Because the adjacent properties are commercial/office and not residential, staff anticipates that the impact on these uses will be minimal. The only business that could be potentially impacted is Motel 6, which borders the proposed comedy club site to the south. However, if operated properly, staff does not believe that the proposed use will create adverse impacts on the motel or surrounding neighborhood. Furthermore, staff believes that the recommended conditions of approval would ensure that the surrounding uses are not impacted due to noise, parking, litter, loitering, or other objectionable influences. If necessary, the application could be brought back to the Planning Commission for additional conditions to mitigate and/or prevent any nuisances that were identified. Therefore, from a land use perspective, staff finds the use to be acceptable, as conditioned.

The applicant previously operated its comedy club in Concord. Staff contacted the Concord Police Department and was informed that there were many criminal incidents at the Concord location and that it created a drain on Concord's Police Department. The Pleasanton Police Department expressed concern that the applicant's proposed use could create similar incidents and strain on Police Department staffing, particularly late-night patrols. Staff notes that disc jockey (DJ) music, dancing, and heavily discounted alcohol prices (\$1.00 shots) were offered at the Concord location, which the applicant has acknowledged created problems in Concord and, therefore, is not proposing to do it in Pleasanton. Staff feels that the lack of live/DJ music, dancing, and low-priced alcohol would greatly reduce the chances of creating similar problems in Pleasanton. In order to further minimize and/or prevent such impacts, staff has recommended the following conditions of approval:

- Require the applicant to employ security personnel to ensure appropriate behavior of its patrons both within and outside of the facility.
- Limit the hours of operation as follows: 11:00 a.m. to 12:00 midnight, Sunday through Thursdays; and 11:00 a.m. to 1:30 a.m., Fridays and Saturdays.
- Require alcohol service to cease at 1:00 a.m. on Fridays and Saturdays.
- Require Planning Director approval to increase the "happy hour" discount or create other reduced-price alcohol promotions.
- Require that the use permit be reviewed by the Planning Director in one year to determine if the business is operating in a non-nuisance manner; if there are any major issues or concerns that can not be resolved at the staff level, the use permit would be brought back to the Commission.
- Require employees that serve alcohol to undergo a training program such as TIPS (Training for Intervention Procedures) that is designed to prevent intoxication, underage drinking, and drunk driving.

The applicant is agreeable to these conditions.

Hours of Operation

As proposed, the comedy club would operate between the hours of 11:00 a.m. to 1:30 a.m., seven days a week. As stated above, staff is recommending that the hours of operation be as follows: 11:00 a.m. to 12:00 midnight, Sunday through Thursdays; and 11:00 a.m. to 1:30 a.m., Fridays and Saturdays, which the applicant has agreed to follow.

As conditioned, staff believes that the proposed hours are acceptable and would not adversely

impact the adjacent uses provided noise is properly controlled to prevent impacts on surrounding properties (please see the “Noise” section below for further discussion). Any changes to the hours of operation would require review and approval by the Planning Director and/or Planning Commission. Furthermore, should the applicant’s hours of operation create adverse impacts on the surrounding uses, a recommended condition of approval would allow the City to reduce the hours of operation.

Food Service

Dinner service would end at 10:00 p.m. The applicant has proposed to make appetizers available until closing of the business. In order to provide patrons with late-night menu options other than alcoholic beverages, for the past few years the City has been including a “standard” condition of approval for bar use permits which requires that at least a limited food menu be available until closing. More recently, the City has been requiring that bars provide full meals, not just appetizers, until closing. The applicant is agreeable to such a requirement, but mentioned that he does not want to offer prime rib or steak late at night. Staff feels this is acceptable and staff’s recommended condition requires that the applicant provide a menu of the food items that would be available until closing, which would be subject to the final review and approval by the Planning Director.

Noise

Since there are no proposed plans for dancing, disc jockey (DJ) music, or live bands, the main interior noise source would be from comedy club performers and patrons. The site is surrounded by commercial/office properties and it is located more than 2,000 feet from the nearest residence. Staff feels that the business would not emit an unusual level of noise or be disruptive to surrounding businesses or residents. However, in order to prevent the possibility of future noise problems, staff has included a condition of approval that requires the business doors to remain closed when not being used for ingress/egress purposes, that self-closing door mechanisms be installed on all exterior doors, and that the windows be closed during business hours.

The main exterior noise source would be patrons in the parking lot. As noted earlier, Motel 6 is located south of the subject property. Most low-level parking lot noises (e.g., people conversing at a normal volume, opening and closing of car doors, etc.) should be inaudible to the hotel guests. However, hotel guests and other nearby businesses could be disturbed if inconsiderate patrons were talking loudly in the parking lot or outdoor dining areas, fighting, speeding, slamming car doors, honking horns, “burning rubber,” etc. Based on the applicant’s desired business atmosphere, the patrons would not be expected to create these types of noise problems and a condition requires the applicant to provide security and regularly monitor the area outside of the business to ensure peace and quiet. A condition also requires that the applicant install small signs near the exit doors requesting that customers not loiter outside and to be courteous

and quiet when leaving the business and parking area. However, in the event that the clientele create these kinds of problems, staff has conditioned the project so that if there are any future complaints regarding noise levels due to shouting, fighting, vehicles, etc., the project can be reviewed again to add mitigating conditions of approval. Such conditions could include the hiring of more security guards to patrol the parking area, reducing the hours of operation, and/or reducing the number of seats and/or tables.

Parking

The Municipal Code parking standard for bars and restaurants requires one parking space per 200 square feet of gross floor area or one space for every three seats, whichever is greater. The applicant has proposed a maximum of 250 seats in the 6,531-square-foot building. Therefore, 83 parking spaces would be required for this use, based on the number of proposed seats. The subject property contains 92 parking spaces, meeting the City's parking requirement.

Staff believes that there would be adequate parking for the proposed use and that the potential parking-related impacts on the adjacent businesses would be minimized, as conditioned. Nevertheless, should parking-related problems occur, staff has included a condition of approval which allows the Planning Director to refer the use permit back to the Planning Commission for possible mitigation measures.

During a recent site visit, staff noticed that several areas of the parking lot have potholes or cracked paving that need to be repaired. In addition, the parking spaces need to be restriped. The applicant has indicated that he plans to fix the potholes and cracks, put down a new slurry/top coat, and restripe the parking spaces. A condition of approval requires that the parking lot be repaired and restriped before occupancy.

Signage

The site contains an existing 30-foot tall freestanding pole sign with two internally illuminated cabinets that was approved in 1973. A variance was granted at that time to allow it to be 10-feet taller than the 20-foot Code limit. The applicant had initially proposed to reface the existing pole sign. Because City policy over the past 15 years or so has been to generally not allow pole signs, particularly on sites without freeway frontage, staff had indicated that it would not support the retention and refacing of the existing pole sign. Staff had indicated to the applicant that it would support a monument sign on the property with a maximum height of six to eight feet, depending on the design. The applicant has agreed to remove the existing pole sign. A condition has been included that requires the pole sign to be removed prior to occupancy.

Regarding building signs, the applicant intends to install a new wall-mounted sign above the front entrance, consisting of individual applied letters illuminated by external "gooseneck" light fixtures. Staff believes that the sign type, illumination, and general location would be

acceptable. A condition has been included that requires the applicant to submit a comprehensive sign program for the building prior to installation of any signs.

V. PUBLIC NOTICE

Notices regarding the proposed conditional use permit application and related public hearing were mailed to property owners and tenants within 1,000 feet of the subject property. At the writing of this report, staff has not received any comments from any of the adjacent property owners or tenants.

VI. FINDINGS

The Commission needs to make the following findings prior to the granting of a use permit:

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

Objectives of the zoning ordinance include: protecting existing land uses from inharmonious influences and harmful intrusions; fostering harmonious, convenient, workable relationships among land uses; 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 that the proposed comedy club/bar/restaurant would be consistent with these objectives. The proposed conditions of approval for the project will give the City appropriate controls to ensure that the use does not have any negative impacts on surrounding businesses and properties.

The site of the proposed use is located in the C-F (Freeway Commercial) Zoning District. Bars are conditionally permitted uses in the C-F district and are in accordance with the purposes of the zoning district to provide locations to offer service and amusement establishments to the residents of Pleasanton and surrounding areas. One purpose of the Freeway Commercial District is to provide establishments catering to freeway travelers and tourists. The subject area has evolved from solely a freeway service area as a result of the development of Hacienda Business Park, Pleasanton Park, and other recent office and commercial developments. Tommy T's Comedy Club and Restaurant would not only offer entertainment and dining for freeway travelers and tourists, but also local businesses and residents, thereby conforming to the purpose of the C-F district. Therefore, staff feels 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.

The business will not be offering any live music, DJ music, or dancing, thus avoiding possible adverse impacts on the adjacent businesses. As conditioned, security staff would be provided and food service would always be available with alcohol service. Since residences are located a substantial distance from the proposed site, staff does not anticipate that the proposed use will create adverse impacts on the residential community. In addition, use would be reviewed by the Planning Director in one year to ensure that it is operating in a non-nuisance manner. The proposed use will also have adequate parking to meet project demand.

Staff feels that any areas of possible concern have been conditioned so that the proposed use will meet all applicable Municipal Code requirements and would be operated in a non-nuisance manner. Furthermore, the applicant can be required to mitigate any future nuisances or problems. Therefore, if all the conditions of approval are complied with, staff feels the proposed comedy club/bar/restaurant will not detrimentally impact the surrounding properties, and staff believes that this finding can be made.

C. That the proposed conditional use will comply with each of the applicable provisions of the zoning ordinance.

The site's Freeway Commercial zoning conditionally permits the establishment of bars, which staff feels is analogous to a comedy club which serves alcohol and food. In staff's opinion, the proposed use complies with all relevant sections of this ordinance. Granting a conditional use permit to the applicant for a bar/comedy club is consistent with the City's ability to regulate zoning as listed in the Municipal Code Chapter 18.124 "Conditional Uses." Therefore, staff believes that this finding can be made.

VII. CONCLUSION

As proposed by the applicant and conditioned by staff, staff believes that the proposed comedy club/bar/restaurant will be compatible with the surrounding businesses and will not detrimentally affect the surrounding uses or properties. Conditions of approval have been included which will ensure that the safety and general welfare of the surrounding area, and the City in general, is maintained. Furthermore, since a comedy club is not provided elsewhere in the City, it will provide Pleasanton residents with a new entertainment opportunity.

VIII. ENVIRONMENTAL ASSESSMENT

Projects of this nature are categorically exempt (Section 15301, Existing Facilities, Class 1, and Section 15303, New Construction or Conversion of Small Structures, Class 3) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

IX. STAFF RECOMMENDATION

Staff recommends that the Commission approve Case PCUP-163 by taking the following actions:

- 1) Make the conditional use findings as listed in the staff report; and
- 2) Approve Case PCUP-163 subject to the conditions listed in Exhibit B.

Staff Planner: Steve Otto, Associate Planner (phone: 931-5608 or email: sotto@ci.pleasanton.ca.us)