

MINUTES  
REGULAR PLANNING COMMISSION MEETING  
CITY COUNCIL CHAMBERS  
1 CIVIC CENTER DRIVE  
SAN MARCOS, CALIFORNIA  
MONDAY, MARCH 5, 2012 - 6:30 PM

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CALL TO ORDER

At 6:30 p.m. Planning Division Director Backoff called the meeting to order.

PLEDGE OF ALLEGIANCE

Commissioner Wedge led the Pledge of Allegiance to the Flag.

SEATING OF NEW COMMISSIONERS

Backoff: Introduced new & re-appointed commissioners and asked them to be seated at dais. Re-appointed as regular members for a two-year term: Bruce Minnery, Dean Nelson, Kevin Norris and Jim Schaible; and new regular, one-year term: Carl Maas (former Alternate replacing Regular member Bill Jacoby, who resigned). New Alternate: Eric Flodine (replaced Maas), seated in audience.

ELECTION OF CHAIRPERSON

Kildoo: Commented that he enjoyed being chair but can only serve four consecutive years. Nominations opened for chairperson.

Norris: Motion made to nominate Dean Nelson.

Minnery: Motion made to nominate Kevin Norris.

Wedge: Motion made to nominate Jim Schaible.

Wedge seconded the Motion made by Norris to nominate Nelson and carried by a unanimous vote (with Nelson abstaining).

NEW CHAIR: Dean Nelson.

ELECTION OF VICE-CHAIRPERSON

Nelson: Nominations opened for vice chair.

Wedge: Motion made to nominate Jim Schaible, seconded by Kildoo and carried by a unanimous vote.

NEW VICE-CHAIR: Jim Schaible.

ROLL CALL

The Secretary called the roll:

PRESENT: COMMISSIONERS: KILDOO, MAAS, MINNERY, NELSON, NORRIS, SCHIAIBLE, WEDGE

ALTERNATE COMMISSIONERS IN AUDIENCE: FLODINE, JONES

ABSENT: None.

Also present were: Planning Division Director, Jerry Backoff; Associate Planner, Susan Vandrew Rodriguez; Office Specialist III, Lisa Kiss; Deputy City Attorney, Jim Lough

ORAL AND WRITTEN COMMUNICATIONS

None.

**CONSENT CALENDAR**

1. APPROVAL OF MINUTES, 1/9/12, 1/12/12 & 1/17/12

Action:

COMMISSIONER WEDGE MOVED TO APPROVE CONSENT CALENDAR AS PRESENTED; SECONDED BY COMMISSIONER KILDOO AND CARRIED BY A UNANIMOUS VOTE.

**PUBLIC HEARINGS**

2. **Case No:** CUP 88-19 (11R)

**Application of:** Jason Dunn Jr., dba Club Tropics

**Request:** Renewal of a Conditional Use Permit to continue the operation of an adult nightclub in the Commercial-Specific Plan (C-SP) Zone in the Richland Neighborhood.

**Location of Property:** 740 Nordahl Road, Suite 125, more particularly described as: Parcel A of Parcel Map 14527. Assessor's Parcel No.: 228-120-44.

Staff Presentation (Susan Vandrew Rodriguez):

Described request and location. PowerPoint presentation shown. Discussed background: Five previous CUP renewals & modifications from '96-08. Previous complaints prior to '05 were associated with HipHop music. No complaints since '05 with Latin only music and under new owner. Renewal is for continued operation of 21

and over nightclub as well as live entertainment and dancing. Floor plan shown. Monitoring program includes Security and Safety Plan, security "guard cards" and insurance. City's Fire and Building Departments inspected in February and minor corrections were completed. There are T.I. plans under preparation for roof and water damage repairs. They are able to continue operation during repair. Plans are to include new floor plan to determine new occupancy (330). Parking demand is 92 spaces. A number of businesses close at 6 PM and the club starts at 8:30 PM. There are 211 spaces in the center. The Entertainment and Dance Permit previously issued via permit by City Clerk's office is now part of CUP. There have been no recent violations. They operate Wed.-Sunday. No violations of ABC license. Sheriff's Dept. did not oppose the renewal. Staff recommends approval of the 3-year term.

Backoff: Pointed out that in the resolution there are no "in/out" privileges. Don't want loitering and patrons leaving to cars, etc. Applicant has requested a small outdoor smoking area in front of the plaza. They would then be allowed to go back in. If Commission concurs, the revised condition would be subject to Sheriff's approval.

Nelson: Asked what they're doing now?

Backoff: Believe they are doing it now, but the old CUP doesn't acknowledge it.

Schaible: Commented that he didn't see Wed.-Sunday in conditions.

Vandrew: That is their operation hours and it should be stated in the conditions.

Schaible: Asked if the deposit is a normal procedure?

Backoff: It's becoming one. City had past issue and litigation with Jumping Turtle. Need to be consistent so we're now requiring it for new CUP's or renewals. Applicant concurs and has paid fee. Money will go back to them with interest if there are no code enforcement issues.

Schaible: Inquired if any food service?

Vandrew: There's no kitchen or preparation facility.

Schaible: Asked if they can serve popcorn or peanuts?

Vandrew: As long as they're complying with the Health Code.

Nelson: Asked how the applicant would know the actual cost of enforcement?

Backoff: City would advise applicant of the cost.

Vandrew: There's an account that it goes in that can be tracked.

Nelson: In addition to regular taxes for police protection, they must pay an extra fee?

Backoff: It's to be consistent with other CUP applications. City would itemize and show the operator the cost. They have not had any issues in last few years.

Nelson: Asked what would happen if a riot and amount is exceeded?

Backoff: City would ask for additional funds if it goes below \$2,000.

Wedge: Asked at what point the money is returned, until they no longer have the CUP, or after several years of no enforcement?

Backoff: City keeps it as long as they have a valid CUP.

#### OPEN PUBLIC HEARING

Jim Kelly, Landlord of Shopping Center: Present to answer any questions.

Humberto Ortega, Applicant: Accept all the conditions.

Nelson: Asked if they serve pretzels?

Ortega: Will do if okay.

Vandrew: Okay as long as no food preparation.

Nelson: Asked if business is doing okay and no problems with neighbors?

Ortega: Indicated everything is fine.

Kildoo: Commented that things have been much quieter than past years.

Ortega: Agreed and they like to keep it that way. Format was switched to Latin music. They have been there five years now.

#### CLOSE PUBLIC HEARING

Action:

COMMISSIONER KILDOO MOVED TO APPROVE CUP 88-19 (11R) AS SET FORTH IN RESOLUTION PC 12-4286; SECONDED BY COMMISSIONER SCHAIBLE

Backoff: Reminded them to include the discussed modification.

COMMISSIONER KILDOO AMENDED MOTION TO INCLUDE MODIFICATION FOR OUTDOOR SMOKING AREA: #E. 23. "In and Out" privileges of patrons are prohibited. No marked patron shall be allowed reentry into the facility after leaving **and exiting to the parking lot** during an event/performance. **As permitted by the Sheriff's Department, patrons may only be allowed temporary exit and reentry from an outdoor smoking area clearing marked and supervised by security personnel, located southeast of the front entry.**; SCHAIBLE AMENDED HIS SECOND AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE;

AYES: COMMISSIONERS: KILDOO, MAAS, MINNERY, NELSON,  
NORRIS, SCHAIBLE, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

PLANNING DIRECTOR COMMENTS

Backoff: City Council approved and adopted the comprehensive General Plan update. The bigger issues were two of Steve Bieri's properties: Council left the Mulberry property as Bieri requested and GPAC recommended, and eliminated residential on Bieri's other property next to the movie studio. The movie studio was left as movie studio and Grand/Las Posas property was left as Commercial. The City received a letter of intent to sue on the General Plan Update. The City is now going through that process and the public records request. The City Attorney's office is trying to determine what their issues are. The letter is from the Briggs Law Group/CREED-21. Commission may recall a letter that said basically, "the analysis is not valid enough." They included a CD with thousands of pages. City responded that based upon case law there was no need for response to that. Prior to the last City Council hearing, they submitted a different letter and another CD. That letter identified what they considered inadequacies to CEQA and other issues. The City responded, and the consulting firm responded to all their points, to acknowledge the City did things above board consistent with CEQA law.

Nelson: Asked who they represented?

Backoff: Not sure but have seen their name throughout CA.

Lough: It's a group that's typically formed to sue City's over General Plans.

Kildoo: Commented that he understands the Briggs group derives their income through settlements. Hopes the City avoids paying a settlement, even if it's simpler, because it rewards those behaviors.

Lough: Last year, the Court of Appeals rejected a suit based on a generic letter by the Briggs Law firm. Feels the consulting firm did a very good job of putting things together.

Backoff: When they say settlement, they'll sometimes ask for additional text to give more coverage. That's something City could consider, but City needs to find out what they're looking for.

PLANNING COMMISSIONERS COMMENTS

Kildoo: Asked for update on SR-78.

Backoff: Nordahl Bridge is under construction. There's potential this week of night-time closures of the highway. Everything is on track; believe a 7-8 month completion date.

Schaible: Asked about Mission & Bennett Roads.

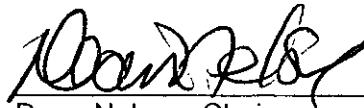
Backoff: Temporary by-pass. Right up against right-of-way for railroad and light rail. There will be new hook ramp and bridge. It's \$40 million-plus and will take time to get funding.

Schaible: Asked who pays for interchange improvements?

Backoff: City pays for interchange improvements, coupled with PFF fees.

ADJOURNMENT

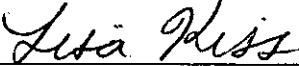
At 7:04 p.m. Commissioner Nelson adjourned the meeting.



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Dean Nelson, Chairma  
SAN MARCOS PLANNING COMMISSION

ATTEST:



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Lisa Kiss, Office Specialist III  
SAN MARCOS PLANNING COMMISSION