

REGULAR MEETING OF THE
CITY OF CONCORD PLANNING COMMISSION
COUNCIL CHAMBER, 1950 PARKSIDE DRIVE
CONCORD, CALIFORNIA

WEDNESDAY, February 19, 2014

A regular meeting of the Planning Commission, City of Concord, was called to order by Chair Carlyn Obringer at 7:00 P.M., Wednesday, February 19, 2014, in the City of Council Chamber.

I. ROLL CALL

All were present except Commissioner Avila who had an excused absence

COMMISSIONERS PRESENT:

Chair Carlyn Obringer
Vice Chair John Mercurio
Commissioner Robert Hoag
Commissioner Tim McGallian

STAFF PRESENT:

Frank Abejo, Project Manager
Jason Hade, Project Manager
Susanne Brown, Senior Assistant City Attorney

II. PLEDGE TO THE FLAG

Commissioner McGallian led the pledge.

III. PUBLIC COMMENT PERIOD

No public comments received.

IV. ADDITIONS / CONTINUANCES / WITHDRAWALS

Senior Planner Frank Abejo announced he was acting as Secretary to the Planning Commission on behalf of Planning Manager Carol Johnson and reported no changes to the agenda.

V. CONSENT CALENDAR

APPROVAL OF MINUTES

Motion was made by Commissioner McGallian, and seconded by Vice Commissioner Mercurio to approve meeting minutes of February 5, 2014 with corrections as noted on pages three, four and five. The motion was passed by the following vote:

AYES: Hoag, Mercurio, Obringer, McGallian
 NOES: None
 ABSTAIN: None
 ABSENT: Avila

VI. PUBLIC HEARINGS

The notice of this public hearing was published in the Contra Costa Times and posted in the City’s posting cabinet on February 14, 2014.

1. HOOKAH PLACE (PL 131353 - MP)

Jason Hade, Project Planner, presented the staff report. The Hookah lounge is proposing to serve customers eighteen years of age and older. Their proposed hours of operation are from 2 PM to 11 PM Monday through Thursday and Sunday. Hours of operations for Friday and Saturday are 2 PM to 12 AM. No food or beverages are to be served, including alcoholic beverages. The project site is just south of Sunvalley Mall. It is surrounded primarily by residential properties located in Pleasant Hill. The application was submitted on November 18, 2013. A neighborhood meeting was held on January 6, 2014; one person attended to support the project. On January 13, 2014 a notice was sent to all properties within 300 feet of the project site, stating no public hearing would be held unless requested. On January 16, 2014, a public hearing was requested by the City of Pleasant Hill. Hookah lounges are authorized within the neighborhood commercial zoning district subject to approval of a Minor Use Permit. The proposed project is consistent with the General Plan and Development Code. The project is in compliance with the Smoking in Public Places and Workplace Municipal Code. The staff and the City of Pleasant Hill have identified some project issues. The identified issues are as follows: compatibility with adjoining residential neighborhood, security plan, parking capacity, noise and hours of operation. Planner Hade stated the staff is recommending adoption of Resolution No. 14-05PC approving the Minor Use Permit subject to conditions of approval within Attachment A. Staff believes the approval of this project would upgrade the existing vacant tenant space and will not be detrimental to the public. There were several benched items, which include various correspondences from Pleasant Hill residents as well as the American Lung Association.

The following are comments by the Commissioners and clarifications by Project Planner Hade.

Vice Chair Mercurio questioned the manner of enforcing the no bottled beverage sales on the site. How will this be monitored to comply with the

requirement? Project Planner Hade responded by stating if any complaints were received code enforcement would investigate.

Commissioner Hoag voiced concerns about the smoke that would permeate to other businesses in this area. Planner Hade stated there is a condition to address the smoking environment, and there are some tenant improvements that may be required. Commissioner Hoag was troubled with the condition stating the improvements *may* take place instead of requiring it from day one. Commissioner Hoag also was concerned with the applicant coming back in six months to a year requesting to sell beverages because they are unable to make the money they want to make. Planner Hade responded by saying as far as the city is concerned the conditions would be locked in as presented this evening.

Commissioner McGallian wanted clarification on whether the code allowed the applicant to come back and ask to sell beverages. Planner Hade stated the applicant could come back and request this, but the Municipal Code does not permit the sale of beverages. Planner Abejo, replied the Municipal Code only allows the applicant to sell tobacco and tobacco paraphernalia and selling food or beverages is not an option.

Chair Obringer requested details of the security plan. Planner Hade specified the security plan would need to be reviewed by the police department.

The applicant Ahmad Arghandiwal and an associate presented their proposal. The purpose of the Hookah lounge is for adults to socialize and to provide a fun relaxing environment and to bring business into the City of Concord. There will be security monitors and a security guard during business hours on the site. The security guard will be checking identification to ensure no one under the age of eighteen gets into the establishment. Presently there is a ventilation system on site that will be expanded. The Applicant stated many contractors have been spoken to in regards to the ventilation system. The proposed ventilation system will ventilate the air out and will have a system to bring air in. If any patching of the walls is needed the applicant is willing to do this. There will be low volume music during the business hours. There will be automatic lighting outside. They are trying to provide a great environment.

Commissioners shared their comments concerning the Hookah Lounge. Commissioner McGallian asked the applicant their target demographic. The applicant responded by stating we are looking for a mixed group of people. Commissioner Hoag asked if the applicants plus the security guard would be the only employees running the lounge. Their responses were yes. Chair Obringer asked if there would be additional entertainment at some time. The Applicants stated they are not looking to add entertainment at this time. The applicants responded by saying they do not want to have any trouble with the neighbors. The applicants also stated they would make sure to stay in

compliance with the codes. The tobacco brand they use has non-addictive components. Chair Obringer requested information on how the coals work. The applicant responded charcoal is heated on an electric grill that is enclosed and ventilated which meets the Fire Code guidelines. Chair Obringer asked them to address how they will deal with loitering and their clients waiting their turn if the lounge is full. The applicant answered by saying he believes the security guard, more lighting, and cameras would be a deterrent to someone wanting to stand outside the establishment or loiter. Chair Obringer questioned would there be signage that explains these items and the applicant responded with a yes.

Public Comment

David Pitman of Concord is a member of the Tobacco Prevention Coalition. Mr. Pitman was concerned about the loopholes in the application. Hookah lounges are not addressed in the Concord City Ordinances. There was no environmental impact report. Pleasant Hill would not allow something like this in their city and yet this is right on the border. He would like the city to consider the public's health and safety. Mr. Pitman would not like for this to be approved.

Gail Wright of Pleasant Hill was concerned with the noise and the traffic at the intersection late at night. The homes near the site are mostly rentals and several are vacant so she believed that is why no one was at the Neighborhood Meeting held in January. She also stated the sound travels over the houses nearby. Ms. Wright is equally worried what effect the smoke will have on the surrounding area.

Denice Dennis, Tobacco Prevention Project at Contra Costa Health Services in Martinez. California's Smoke Free Workplace Act does allow smoking in lounges, but serving of food or beverages is prohibited. There are several public health safety concerns related to smoking in lounges. The drifting smoke from the proposed lounge may severely impact the other surrounding businesses and residences. They have had other complaints in the county particularly from business that have shared walls and shared ventilation. Neighboring businesses have called to complain about smoke that comes into their business. Ms. Dennis states there is no ventilation system that exists to filter out this smoke.

Dimitri Maggianas, property owner of the building. Mr. Maggianas stated he did not enter into a lease with these hard working young guys lightly without doing some research. The lease is very short and if any violations occurred the lease would be terminated. The ducts are not connected, and the building department will let them know if there is a problem in regard to the smoke. If the building department notes violations it will be shut down in order to stay in compliance with the insurance company. One reason the owner awarded the lease was because of loitering that exists at the building

presently. Allowing the Hookah lounge with its security guard will discourage the loitering that exists in its current state.

Ray Barbour of Concord noted he had no opinion on smoke at all. In response to no beverages he assumes that means no water. The lights need to protect the environment for safety issues but must not be a nuisance to the neighbors.

Chair Obringer closed the public hearing.

Sergeant Norris addressed questions from the Commissioners. Commissioner Hoag addressed the issue with age verification and wanted to know would the police department wait for complaints or will the police department make unannounced visits to make sure the business is in compliance routinely. Sergeant Norris responded with a yes and stated tobacco sales endorsement allows them to occasionally go out and check to make sure the business is in compliance.

Commissioner Hoag shared some information from an article about smoking statistics. He also noticed the traffic that could occur from making a u-turn on perhaps the incorrect street because no one may want to go down to Ellinwood. He believes the target audience for the applicant is between the ages of eighteen to twenty years old and does not see how we can say this is not detrimental to the people in the area. Commissioner Hoag stated there is no way he can approve or support approval of this use. Commissioner McGallian stated the need to address establishments such as this in the Development Code and not take it out on one business. He understands what Commissioner Hoag stated. He supports the applicant because it is in alignment with the guidelines of the Development Code. Commissioner McGallian also stated we need to be fair to all business that come into the City of Concord. Personally Commissioner McGallian would not endorse this type of business, but because it falls in the guidelines of the Development Code he will be supporting it. Commissioner McGallian specified he is open in the future to address regulations for this type of use in the Development Code. Vice Chair Mercurio complimented the applicants on their homework. Vice Chair Mercurio concurs with Commissioner McGallian and stated this is not a business he would patronize. Vice Chair Mercurio would like to add to the conditions of approval *will* require additional filters as opposed to *may* require additional filters. With this change Vice Chair Mercurio could support approving the application. Chair Obringer stated that she is unlikely to visit the establishment. She concurred with Commissioner McGallian and Vice Chair Mercurio and will be supporting the project with Vice Chair Mercurio's amendment. Chair Obringer stated not approving the project is not in their decision making level. There is also a chance to clean up the area and this is a win-win for the area and neighbors as well.

Motion was made by Commissioner McGallian and seconded by Vice Chair Mercurio to adopt Resolution No. 14-05PC approving Hookah Palace Minor Use Permit; PL 131353-MP subject to the condition of approval set forth in Attachment A to Resolution 14-05PC and making addition to item number ten saying will require a filtration system. The motion passed by the following vote:

AYES:	Mercurio, Obringer, McGallian
NOES:	Hoag
ABSTAIN:	None
ABSENT:	Avila

Planner Abejo mentioned the decision of the Planning Commission can be appealed within ten days of the meeting. Anyone interested in appealing can do so by picking up the paper work at the Permit Center.

VII. COMMISSION CONSIDERATIONS

There were no items to be considered.

VIII. STAFF REPORTS / ANNOUNCEMENTS

Planner Abejo announced the only item planned at this time for the upcoming March 5, 2014 meeting agenda is a Staff Report on the General Plan Annual Progress Report.

IX. COMMISSION REPORTS/ANNOUNCEMENTS

Chair Obringer announced on March 9, 2014 there will be the unveiling of the ten thousand cranes sculpture at the Brenden Theatre at 1:30 PM and the event is free.

X. FUTURE PUBLIC HEARING ITEMS

Previously announced under Staff Reports

XI. ADJOURNMENT

Commissioner McGallian moved to adjourn at 8:08 p.m. Vice Chair Mercurio seconded the motion. Motion passed by unanimous vote of the Commission.

APPROVED:



Frank Abejo, Acting Planning Manager

Transcribed by Toi Wells

