



## MINUTES

### PLANNING COMMISSION MEETING

**JULY 27, 2009**

*The meeting of the El Cajon City Planning Commission was called to order at 7:00 p.m.*

#### PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE

#### ROLL CALL:

**COMMISSIONERS PRESENT:** Anthony SOTTILE, Chairman  
Anthony AMBROSE  
Star BALES  
Paul CIRCO  
Darrin J. MROZ

**COMMISSIONERS ABSENT:** NONE

**OTHERS PRESENT:** Barbara RAMIREZ, Principal Planner  
Barbara LUCK, Assistant City Attorney  
Eric CRAIG, Assistant Planner  
Dennis DAVIES, Deputy Director, Public Works /  
Engineering  
Ron Luis VALLES, Administrative Secretary

SOTTILE briefly explained the mission of the Planning Commission. SOTTILE welcomed comments under Public Comments. No one came forward.

**CONSENT CALENDAR:** Motion was made by CIRCO, seconded by BALES to adopt the Planning Commission minutes of July 13, 2009; carried 5-0.

RAMIREZ noted that two applications (Specific Plan No. 643 and Conditional Use Permit No. 2107) were advertised to be on tonight's Planning Commission agenda, and then later withdrawn by a Notice of Rescission. The public hearing date for that project remains to be determined.)

**CONDITIONAL USE PERMIT NO. 2100**

*(This is jointly noticed for the City Council meeting on August 25, 2009 at 7 p.m.)*

This was a public hearing on a request to add live entertainment to an existing cocktail lounge in the General Commercial (C-2) zone. The subject property is located on the south side of West Main Street, between South Sunshine and Van Houten Avenues, and is addressed 351 West Main Street.

APNs: 487-331-01 and 487-341-01  
General Plan: Special Development Area No. 9 (SDA #9) / General Commercial (GC)  
Zoning: General Commercial (C-2)  
Applicant: El Cajon Grand, Inc. (Alex Kalogianis) / 858.245.6628  
Project Planner: Eric Craig / 619.441.1782

CRAIG summarized the staff report. He emphasized that, given the nature of the surrounding uses and the proposed live entertainment, staff determined that granting this proposal would not create a nuisance to the other uses in the vicinity.

He said that staff recommended several conditions of approval for this project. Notably, the Public Works Department recommended that the existing driveways at the site be rebuilt to meet ADA requirements.

CRAIG mentioned that staff acknowledged the applicant for dramatically improving the condition and appearance of the subject property. The applicant enhanced the building's exterior with decorative rock and large windows, added landscaping to the site, re-paved the parking area and provided a monument sign. The applicant also performed extensive tenant improvement work inside the bar. He emphasized that the property is in much better condition than it was a couple of years ago.

SOTTILE opened the public hearing and invited any speakers to the podium.

**Mr. Alan DUEBER**, 9131 Fletcher Parkway Drive, La Mesa, CA 91942, is the architect for the project. He noted that the owners have spent over \$500,000 in improvements on the subject property. He emphasized concern over Public Works comment 3-A to complete ADA driveway requirements. He stated that staff's suggestion of closing one driveway would not be feasible due to safety concerns as the beer and wine delivery trucks require clearance and cannot impinge onto the public right of way. He noted that the estimated \$25,000 to \$35,000 to make the driveways ADA-compliant would create an additional financial hardship for the applicants. He informed that the City made ADA improvements on Main Street about seven years ago and did not require the previous owners to comply with that requirement.

DUEBER noted that with the remodel of the building they made sure that they complied with ADA requirements. He asked that the driveway improvements as requested by Public Works be waived.

SOTTILE sought information from staff. CRAIG clarified that this application is not an amendment of a previous conditional use permit. There is no conditional use permit approved for the site. The previous applicants were not able to obtain a Special Operations License so the CUP expired. He noted that closing one driveway was a staff suggestion; however, he reconsidered it based on DUEBER's comments about deliveries.

SOTTILE asked the architect if he agreed with the other conditions of approval and DUEBER replied affirmatively. However, he emphasized that the economy is tough and it would be difficult to complete the condition requesting the applicant make the driveways ADA-compliant.

MROZ sought clarification on ADA-compliant driveways. DAVIES replied that Public Works would like for the driveways to be removed and replaced. He explained that the grade of the driveway from the street to the subject property is steeper than two percent, which impairs a handicapped person to cross the driveway. He emphasized that Public Works has not waived this requirement in the past because of the liability involved with third-party lawsuits.

**Mr. Alex KALOGIANIS**, 3528 Princeton Avenue, San Diego, CA 92117, is applicant and owner of the business at 351 West Main Street. He reiterated DUEBER's comments regarding the ADA-compliant driveways. He asked why the driveways were not completed seven years ago and now it's been passed down to him, a small business owner. They have spent over \$650,000 to \$700,000 of their personal money in this business and improvements.

He was not made aware of the driveway requirement when he submitted the plans to the department. If he knew, he would have altered his budget and included the costs into their remodel of the project. He noted that typically it takes about three to four years before the business would show a profit.

CRAIG added that he did not know about the requirement seven years ago; however, he noted that he was aware of the driveway requirement imposed on the previous application for a conditional use permit to establish live entertainment. He noted the plans were routed to Public Works since there was a request for a trash enclosure. He did not know if the replacement of the driveways was addressed at that time.

DAVIES added that the driveways were required under the previous conditional use permit application in 2006 for the same property and use. The CUP was approved at that time; however, the previous applicant never completed it. Subsequently, Public Works discovered it was not completed during a field visit.

AMBROSE asked if the city could extend the time to replace the driveways. RAMIREZ replied that they could do a limited deferral of the requirement; however, she noted that there must be some consequence if it is not completed. She recommended that the Commission leave the condition as is and send it the City Council for their final review.

SOTTILE asked if the consequence was a liability or another type? RAMIREZ said that if more time is granted to the applicant, and the reconstruction does not occur within the extended time frame, she rhetorically asked the Chairman, what would happen? However, she reaffirmed that staff would not support a waiver since the driveway is a federal requirement.

SOTTILE told the applicant that the ADA requirement is a federal requirement. He suggested extending the deadline to make the driveway ADA compliant, and that the Commission recommends Council grant an extension. MROZ concurred. CIRCO also concurred and noted that during a recent construction project at Shadow Mountain Church, where after completing plans to make 10 restrooms ADA compliant, new federal requirements were imposed which cost an additional \$25,000. He supported that the Commission extend the deadline or pass along a recommendation to City Council that they grant an extension. BALES also supported the extension.

AMBROSE noted that the Commission has the option of revocation and noted that the applicant doesn't want to go through that process. He asked the applicant how much time is required. KALOGIANIS replied that, in discussions with DUEBER on the costs of the driveway, it was estimated to be about \$10,000 to \$12,000 per driveway. He noted that the slow economy would probably stay the same for the next year; he asked for an extension of about 18 to 24 months.

DAVIES noted that a similar case came up with the Motoworld application and there is still no compliance on the driveways. He noted that in staff discussions [regarding KALOGIANIS' CUP], they talked about six to 12 months, but not more than a year extension.

MROZ asked if the applicant was not before the Commission with this conditional use permit application what would be the status of the driveways in a year. DAVIES replied that if the applicant does not have a discretionary permit then Public Works couldn't force someone to replace the driveways. He has seen a request for a pizza oven at a convenience store trigger a driveway replacement.

LUCK reaffirmed DAVIES' comment and emphasized that if the City is found to have a duty to make the driveways into compliance, and fails in that duty, we could encounter a liability. A CUP is an opportunity for the City to impose these federal requirements.

MROZ noted that it passes the cost down to the business owners.

**Ms. Mary MORENO**, 844 Cherrywood Way, El Cajon, CA 92021, is an employee and friend of the business owners. She does not understand why the driveway problem wasn't addressed when the City was inspecting and approving remodel work.

DAVIES replied that if the application were reviewed by Public Works they would have required the driveways, which is standard procedure.

RAMIREZ explained that with a Conditional Use Permit, approval is attached to the land, not the business. The applicant has demonstrated a strong commitment to this community with the investment that he and his wife have made to the business, which includes an upgraded building and enhancements that will be long-lasting. She suggested that investment of private funds has benefited the property owner by increasing the value of the property. She mentioned that the driveway reconstruction could be a negotiating point for the applicant to take to the property owner.

She noted that staff would recommend that the Planning Commission not change anything in the resolution. While waiting for the joint noticed City Council public hearing, the applicant could have further discussions with the property owner and architect, and then address his concerns to the City Council.

Motion was made by AMBROSE, seconded by BALES to close the public hearing; carried 5-0.

AMBROSE explained that his initial feelings were to deny this application and not send it to the City Council; however, he was persuaded by RAMIREZ' recommendation of sending it to City Council without any changes. He noted that the Council would have a record of the Commission's concerns.

CIRCO concurred and also noted that the Commission would be required to enforce both El Cajon and federal laws. He noted that the Commission recommends that the Council have some leniency pertaining to the driveways. Other Commissioners concurred.

Motion was made by CIRCO, seconded by AMBROSE to adopt Resolution No. 10572, recommending City Council approval of Conditional Use Permit No. 2110, subject to conditions; carried 5-0.

This item will be heard at a jointly noticed City Council meeting on August 25, 2009 at 7 p.m.

### **AMENDMENT OF CONDITIONAL USE PERMIT NO. 1805**

This was a public hearing on a request to convert an automatic car wash to a full service car wash, add a vehicle detailing area, and to modify conditions of approval associated with a take-out only restaurant in the General Commercial (C-2) zone. The subject property is located between Interstate 8 and East Madison Avenue on the west side of North Mollison Avenue, and is addressed 596 North Mollison Avenue.

APNs:	483-380-41
General Plan:	General Commercial (GC)
Zoning:	General Commercial (C-2)
Applicant:	Eddie Hamana / 619.987.6362
Project Planner:	Noah Alvey / 619.441.1773

RAMIREZ summarized the staff report.

SOTTILE opened the public hearing and invited any speakers to the podium.

**Mr. Eddie HAMANA**, 1501 Avocado Avenue, El Cajon, CA 92020, is the owner of the subject property.

He noted that the existing owner of the restaurant is out of business and doesn't believe that he has the right to go in and remove the tables. He mentioned that he started the car wash in July of last year and there did exist problems. He corrected the concerns and now services over 100 cars a day.

AMBROSE said that he supports the car wash and told the applicant to pull the booths so that the space could be rented.

In reply to the Chairman, HAMANA said that he has read and agrees to all of the conditions of approval.

No other speakers approached the podium.

Motion was made by BALES, seconded by CIRCO to close the public hearing; carried 5-0.

Motion was made by CIRCO, seconded by MROZ to adopt Resolution No. 10573, granting the Amendment of Conditional Use Permit No. 1805, subject to conditions; carried 5-0.

The appeal period for this item ends at 5 p.m., Monday, August 10, 2009.

#### **OTHER ITEMS FOR CONSIDERATION:**

There were none.

#### **STAFF COMMUNICATIONS**

RAMIREZ informed that there will soon be dramatic changes to the Superblock that include the closure of the main parking lot due to construction of the City of El Cajon's Public Safety Center. She noted that Commissioners were presented with a map of the recommended parking area (Lot #2) for future Planning Commission meetings. That would be in effect for about two years.

CIRCO noted that on the map it stated permits are required. RAMIREZ replied that after 6 p.m. the parking lot should be almost empty and it would not be a problem.

#### **COMMISSIONER REPORTS/COMMENTS**

BALES informed about the upcoming anniversary of the death of former Planning Commissioner Tom BLACK. She remembered him fondly and missed him. SOTTILE added that the loss of BLACK was tremendous to El Cajon as he was an active community leader and servant.

**ADJOURNMENT**

Motion was made by CIRCO, seconded by AMBROSE to adjourn the meeting of the El Cajon City Planning Commission at 8 p.m. this 27th of July 2009 until August 10, 2009 at 7:00 p.m.; carried 5-0.

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Anthony SOTTILE, Chairman

ATTEST:

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Melissa AYRES, Secretary