



DATE: JUNE 1, 2006

TO: PLANNING COMMISSIONERS

FROM: PLANNING STAFF

SUBJECT: MONITORING REPORT FOR SITE PLAN/ARCHITECTURAL REVIEW CASE NO. 04-SPR-024, CONDITIONAL USE PERMIT CASE NO. 05-CUP-001, OUTDOOR DINING PERMIT CASE NO. 05-ODP-001 AND VARIANCE REQUEST CASE NO. 05-VAR-001 (CHAPTER 8)

PROJECT DESCRIPTION AND BACKGROUND

On May 19, 2005, the Planning Commission reviewed four entitlements for a new restaurant and dance lounge, Chapter 8, located at 29020 Agoura Road in the Agoura Village Shopping Center. The entitlements included a Site Plan/Architectural Review Case No. 04-SPR-024 for the exterior remodel of the tenant space, a Conditional Use Permit Case No. 05-CUP-001 for the indoor live entertainment, an Outdoor Dining Permit Case No. 05-ODP-001 for a new outdoor dining patio and a Variance Request Case No. 05-VAR-001 to allow the outdoor dining area with a reduced number of required parking spaces. Included in the Conditions of Approval of the Conditional Use Permit and the Outdoor Dining Permit was a stipulation to update the Planning Commission with a report following a 6-month period of monitoring of the restaurant /lounge. This report summarizes how the operational characteristics specifically conditioned by the Conditional Use Permit and the Outdoor Dining Permit were or were not complied with. As such, the purpose of this item is solely for the sake of providing a monitoring report back to the Planning Commission, this is not a public hearing and no public notification was completed.

The original resolutions included Special conditions (Conditions #11 through 18 for Conditional Use Permit and Conditions #17 through 29 for the Outdoor Dining Permit) addressing potential impacts of the operation but more notably live entertainment and the parking demand. These conditions are listed below with commentaries as to how they were or were not addressed and complied with. Discrepancies between the way the use is operated and the intent behind the conditions have resulted in the need for additional review.

PROJECT ANALYSIS

The request to provide live entertainment¹ requires a Conditional Use Permit. The Conditional Use Permit provides staff with a tool to review the applicant's request and create conditions that are custom-tailored to the proposed use in order to protect the health and safety of the public. In the event that the scope of the use changes, the conditions lose their efficacy and additional review by the Planning Commission is required. Below are the conditions adopted by the Planning Commission on May 19, 2005 during the review of Conditional Use Permit Case No. 05-CUP-001 with an analysis.

The Conditions of Approval relating to the scope of the live entertainment are as follows:

- *CONDITION #11: The live entertainment area for dancing is limited to a 1,080 square-foot area inside the restaurant as delineated in the Floor Plan submitted to the Planning Commission on May 19, 2005.*

and,

- *CONDITION #12: The live entertainment shall be limited to dancing to recorded music and the hours shall be limited to the hours of 10:00 p.m. and the close of business.*

➤ Included in the monitoring of the operation, was a requirement by Staff to verify that the live entertainment remained ancillary and that the square footage of the dancing area remained as originally approved. Staff became aware that Chapter 8 employed professional dancers to dance to recorded music on a mezzanine floor overlooking the dancing area. This exceeded the scope of entertainment permitted at the May 19, 2005 meeting. The applicant was asked to apply for Conditional Use Permit Amendment or remove the dancers. The applicant opted to remove the dancers. A letter from Chapter 8 is attached to the report. Although the floor area allocated for the dancing of the patrons had not changed, additional floor area was being used to provide entertainment that was not originally accounted for. Condition #11 no longer provided a true description of the use and therefore required additional review. It is worth mentioning that the dancers were not included in the scope of the live entertainment as stated in Condition #12. Additionally, staff found that based on the parking demand observed at the site and parking counts provided by the applicant, there appeared to be a set of patrons attracted to the dancing that is different from the one using the eating establishment, creating a demand that is different from what was originally anticipated. The uses appear to be operating in parallel rather than complementary to each other thereby causing the unexpected increased demand for parking.

- *CONDITION #13: No additional exterior lighting or exterior amplified music is permitted as part of this application.*

¹ Defined by the Zoning Ordinance under Section 9120.3.C and listed as a use in Section 9312.2.H.8.

- *CONDITION #14: No signage is approved as part of this application.*
- *CONDITION #15: Outdoor entertainment is prohibited under this application.*
- *CONDITION #16: Pool/billiard tables are prohibited under this application.*
 - The business is in compliance with all conditions listed above.
- *CONDITION #17: The applicant shall obtain an Entertainment Permit from the Los Angeles County Business License Commission, and shall obtain approval of the performance location within the restaurant from the Los Angeles County Fire District. Proof of approval shall be submitted to the Department of Planning and Community Development prior to the start of live entertainment.*
 - As part of the City's review of an eating establishment with live entertainment is the review of a Business License by the Los Angeles County Licensing Office. The applicant has provided proof of a paid application but a public hearing is still pending. (Verified 2/1/06, 4/5/06 and 5/09/06).
- *CONDITION #18: If complaints are received regarding excessive noise, loitering and parking/traffic safety issues and the like associated with the live entertainment use, the Planning Commission may initiate a public hearing to reconsider the Conditional Use Permit.*
 - No complaint of excessive noise has been received to date.
 - Parking and Traffic issues have been brought to the City's attention and in the process of being implemented. Parking issues are analyzed in the discussion below.

Outdoor Dining Permit Conditions of Approval

- *CONDITION #28: A monitoring report on the applicant's compliance with the conditions of approval shall be reviewed by the Planning Commission six (6) months after (or shortly thereafter) the business is operational. Upon review of the report, the Planning Commission may require a public hearing be held to reconsider the entitlement. Based on the criteria established by the Agoura Hills Municipal Code, the Planning Commission may also consider revocation, or new or revised conditions of approval may be placed if deemed necessary by the Commission.*
 - This report was prepared for the Planning Commission as required by Condition #28 of the Outdoor Dining Permit. The applicant's original project was approved by the Planning Commission on May 19, 2005. Interior and exterior improvements were started immediately following Building and Safety Department's approval. Construction took approximately 3 months to complete, however, the conditions related to the operation took longer to implement. The

restaurant has been operating nonetheless since September 2005. Immediately following the opening of the business, staff started monitoring the operation to report to the Planning Commission. Many meetings were conducted between the owner of the restaurant and staff in order to meet the intent of the permits and resolve parking and traffic issues.

- *CONDITION #24: An approval shall be acquired by the applicant from the Alcohol Beverage Control Agency in order to serve alcohol in the outdoor dining area.*
 - A License 47 was issued by the Alcohol Beverage Control Agency to the applicant for indoor and outdoor consumption of alcohol. (Verified on 2/1/06).
- *CONDITION #25: Landscaping shall be maintained within the outdoor dining area in perpetuity.*
 - The landscaping was inspected by the City Landscape/Oak Tree Consultant and to date the new planting is performing as expected.
- *CONDITION #26: If complaints are received regarding excessive noise, loitering and parking/traffic safety issues and the like associated with the live entertainment use, the City may take action to reconsider the validity of the Conditional Use Permit.*

And,

- *CONDITION #29: The location, configuration, design, hours of operation, and the manner of operation of any on-site valet parking shall be subject to review and approval by the City Traffic Engineer and the Director of Planning and Community Development.*

➤ Parking:

The use of valet parking was never authorized at the site. The Sheriff's Department had indicated that they have responded to calls regarding altercations in the parking lot as a result of the patrons waiting for their vehicles from the valet service and socializing in the parking lot after closing of the restaurant. Despite the estimates of the parking demand prepared by Walker and Associates as part of the original application, this business has greatly exceeded expectation and has experienced challenges in providing sufficient parking and a quick and safe dispersal of the crowd after closing. Several meetings were conducted involving City staff, the sheriff's department and the applicant to resolve these issues. The applicant informed staff that to date, the majority of the parking is done by valet service and the one-way east driveway has prevented a fluid dispersal of vehicles.

As part of the original review of the project, staff analyzed the results of a parking study conducted by Walker and Associates, the applicant's consultant as required by the City. The traffic analysis provided conclusions and recommendations based on industry standards of expected level of use for

restaurants and an existing similar use in the City of Westlake Village operated by the same applicant in addition to numerous parking counts and site observations of existing parking conditions on site and at surrounding sites.

The analysis was intended to alleviate the potential impacts that could arise from a reduced parking requirement (approved by the Variance Request Case No. 05-VAR-001). As a remedy, the applicant had proposed an on-site valet parking service that would use the on-site parking lot and allow the stacking of an additional 10 vehicles above and beyond the striped parking spaces. The stacking as presented to staff could not be used due to the relocation of a trash enclosure which restricted access and the need to provide access to the rear lot by Padri Valet parking service.

The applicant was, at the time of the hearing, in the process of securing access to 35 extra spaces from a shopping center (Mann Theater) across the street to be used strictly by employees. The City was able to acquire a copy of an approved signed agreement between both parties. Since the hearing, the Mann Theater Shopping Center was sold and the applicant had to renegotiate with the new owner access to these same parking spaces.

According to the applicant, as a result of the popularity of the use and the shortage of parking, the overflow of vehicles was directed off-site in other unspecified locations. Retrieving the vehicles after closing, as a consequence, took more time than anticipated and as a result, there were certain incidents in the parking lot that resulted in calls for service by the Sheriff. Because of these incidents, staff requested that valet parking be discontinued. Absent valet parking, the applicant has agreed to institute a parking attendant system in which patrons are met by a parking lot attendants at the shopping center entry and then directed to certain open parking spaces depending on their destination. Once all on-site parking spaces are completely filled, the parking lot is closed.

The applicant was asked to conduct a new parking study² while the restaurant was operating to establish demand and come up with alternatives to storage and circulation in order to avoid the need for police enforcement. The applicant's consultant Walker and Associates, after conducting parking counts on three evenings during which live entertainment was provided, found that the parking lot is at capacity at 6:00 p.m. and runs between 95% and 85% capacity after 11:00 p.m. Up to 40 vehicles were estimated to be parked at the Mann Theater, on each night by Chapter 8 patrons.

As a reminder, the data provided below is a summary of the existing supply and demand based on square footage that was presented at the May 19, 2006 public hearing before the restaurant started operating.

² Field counts were conducted by Walker and Associates on November 11, 12 and 19, 2005. The final study was dated 5/18/06.

	Required Parking Chapter 8	Required Parking by Others	Total Required On-Site	Total Provided	Shortage
Chapter 8 without ODP:	53	51.49	104	100	-4
Chapter 8 with ODP:	67.83 ³	51.49	119	100	-19

The deficiency was mitigated by the additional 35 spaces agreed upon between the Mann Theater and Chapter 8. These parking spaces were restricted to employees only. Although the Code does not differentiate employee versus customer parking, in theory, 16 extra spaces would have been provided above and beyond the requirement. The information provided in the study however, shows that the parking lot reaches capacity very quickly and the demand far exceeds parking availability. Overall, the demand exceeds up to 117% of the availability. The study also identifies “closures” during which vehicles were turned away. The number of vehicles is unknown however one can extrapolate based on the average number of vehicles per hour that 4.25 minutes of closure may have turned away 2.6 vehicles. This is another indication that the demand continues to be strong up until late in the evening.

Based on this information, the applicant’s consultant recommended the following measures:

1. Maintain a valet parking service that will store vehicles on and off-site;
2. Maintain off-site storage of employees vehicles at the Mann Theater; and
3. Modify the circulation throughout the site;

These recommendations would require obtaining another parking agreement with the owner/tenant of the Adobe Cantina Restaurant (the site that was selected for off-site storage of customer parking). According to the applicant, the owner is reluctant to provide access to his lot without a valet parking service company of his choice. This satellite lot could provide an additional 60 parking spaces on a valet parking basis.

While Chapter 8 employs private security personnel, as mentioned earlier, there have been occasions in which calls for Sheriff’s service have been made. For example, during the process of reviewing these alternatives, more altercations and police interventions occurred and neither the existing parking scheme nor the recommendations were believed to be effective in eliminating altercations in the late hours and the applicant was informed to terminate the valet parking

³ The total required parking spaces include 53 for interior dining, 15 for exterior dining and 2 displaced spaces due to construction.

service as of March 26, 2006. The Sheriff's Department informed the City (on 4/27/06) that no incident had occurred since the valet parking had ceased operation.

The Variance that was reviewed by the Planning Commission was required by the outdoor dining and not by the live entertainment therefore no additional parking supply was imposed on the applicant as a result the ancillary use. Currently, it is staff's belief that the high demand in parking is attributed more to the live entertainment rather than to the outdoor dining. Based on the applicant's testimony and staff's observation, there appears to be an early dinner clientele and a late evening dancing clientele that appears around 10:00 p.m. The uses, instead of being ancillary to one another, operate as two separate uses both as popular as the other.

Two weeks after the valet parking services were discontinued, a meeting was convened by the tenants and the owners' representative of the shopping center with City staff to discuss lack of parking in the early hours of the evening. It appears that without the use of a valet parking, Chapter 8 dining patrons have occupied the entire shopping center parking and prevented regular patrons from getting access to Fabrocini and Teague Pilates until 10.00 p.m. Both businesses have reported losing customers due to the lack of parking.

More recently, Chapter 8 informed staff that they had been impacted by the elimination of the valet parking and the applicant is reiterating his request to bring back the valet parking service. Instead of valet parking, Staff is recommending parking lot attendants at this time, specifically during the hours of 5:30 and 9:30 p.m., to minimize impacts to neighboring tenants while waiting for a comprehensive valet parking program. The parking enforcement staff should be posted at both entrances of the shopping center as well as the center to direct the flow of traffic and reserve spaces in front of the other tenants' suites. The attendants should direct traffic but also be able to stop vehicles from entering the parking lot in the event that the lot is full. The site should be clearly posted as well. Given the issues expressed by the Sheriff's Department, Staff is not in a position to approve valet parking. If the applicant wishes to pursue valet parking, it must be approved by the Planning Commission.

➤ Other issues:

Other disturbance calls have been received by the Los Angeles County Sheriff's Department. Meetings with the applicant's staff and the sheriff's office were organized to advise the applicant of his responsibility toward his clientele and alcohol consumption. The applicant states that additional security has been provided indoor and outdoor during the operation and at the time of closing to diffuse any potential volatile situation between patrons. Cab service is also available to the intoxicated clientele.

- *CONDITION #27: The applicant shall submit a parking agreement between the Agoura Village Shopping Center and the Mann Theaters Center for review and approval by the City Attorney prior to issuance of occupancy permits. Said parking agreement shall stipulate the use of 35 individually marked parking spaces to be used for employee parking at the Mann Theaters Center. Said parking agreement shall be in effect at all times for as long as the outdoor dining patio is in existence or other parking is secured elsewhere that is acceptable to the Director of Planning and Community Development and the City Traffic Engineer.*
- The City has received a copy of the signed agreement.

All other conditions have been implemented.

RECOMMENDATION:

Based on the history of the operation and the attempts by staff to work with the applicants in implementing the conditions, staff is requesting further directions about this use. The Planning Commission may consider the following alternatives:

1. Find that the use is in compliance with the conditions of approval and no additional action is required;
2. Issues identified in the report can be resolved between the applicant and staff and no public hearing but an additional reporting to the Planning Commission within a period to be determined by the Planning Commission is required;
3. Issues identified in the report can be resolved between the applicant and staff and no additional reporting to the Planning Commission is required;
4. Conduct a public hearing to amend the original conditions of approval;
5. Conduct a public hearing to consider revocation of the Conditional Use Permit for Live Entertainment.

As stated at the outset, this is solely a monitoring report back to the Planning Commission and this discussion is not a public hearing. Staff has monitored the site over the past several months and parking continues to be an issue. The applicant's solution is to institute valet parking. Based on the Sheriff's concerns, staff is opposed to valet parking and finds that there are other alternative solutions including the continued use of parking lot attendants and securing additional off-site parking lots. Other solutions could include continuation of valet parking with parking lot attendants, educating tenants about disseminating information to patrons, parking validations, tow-truck services and possibly changing the hours of operation of the live entertainment. However, if the applicant wishes to pursue valet parking, it would be appropriate for the Planning Commission to review the request at a noticed public hearing under an amendment to the original conditions of approval.

Attachments

- Exhibit A: Vicinity/Zoning Map
- Exhibit B: May 19, 2005 Meeting Staff Report
- Exhibit C: Letter from Chapter 8 about Dancers
- Exhibit D: Information Submitted by the Applicant
 - Restaurant Owner's Comments about Valet Parking
 - Walker and Associates Latest Parking Study dated May 18, 2006
 - Proposed Valet Company Qualifications
 - Proposed Valet Company Operational Plan
 - Letter of Intent with Adobe Cantina