

REPORT TO CITY COUNCIL

DATE: AUGUST 12, 2009

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER *GR*

BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT *MK*

SUBJECT: ADOPTION OF RESOLUTION NO. 09-1545, OVERTURNING THE PLANNING COMMISSION'S DECISION AND DENYING CONDITIONAL USE PERMIT AMENDMENT CASE NO. 06-CUP-012 (CARLOS OROZCO, APPLICANT)

Based on direction given on July 8, 2009, staff is requesting the City Council adopt Resolution No. 09-1545, overturning the Planning Commission's decision and denying Carlos Orozco's request for Conditional Use Permit Amendment Case No. 06-CUP-012 to expand live entertainment and conduct dance lessons in Senor Carlos Grill & Tequila Lounge/Rockin' Steak House. The restaurant is located in Units 1-5, at 30315 Canwood Street, in the Reyes Adobe Plaza.

The City Council conducted a public hearing on July 8, 2009, to consider an appeal by the City Council of the Planning Commission's approval of the proposed use. Upon considering oral and written testimony of the applicant, staff, and the public, the City Council unanimously directed staff to return with a resolution to overturn the Planning Commission's decision and deny the Conditional Use Permit Amendment request. Staff has prepared the attached resolution for adoption by the City Council.

RECOMMENDATION

Based on direction given on July 8, 2009, it is recommended the City Council adopt Resolution No. 09-1545, overturning the Planning Commission's decision and denying Conditional Use Permit Amendment Case No. 06-CUP-012.

Attachment: Resolution No. 09-1545

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RESOLUTION NO. 09-1545

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, OVERTURNING THE PLANNING COMMISSION'S APPROVAL AND DENYING CONDITIONAL USE PERMIT AMENDMENT CASE NO. 06-CUP-012

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section 1. An application was duly filed by Carlos Orozco for Senor Carlos Grill and Tequila Lounge, with respect to the real property located at 30315 Canwood Street, Units 1-5, Assessor's Parcel Number 2054-020-040, requesting approval of an amendment of a Conditional Use Permit to expand the live entertainment floor area in the Senor Carlos Grill and Tequila Lounge; to extend the live entertainment hours on Sunday to 4:00 p.m. through 1:30 a.m.; and to provide dance lessons from 9:00 p.m. to 11:00 p.m. on Thursdays through Sundays. Public hearings were duly held on May 7, 2009, and June 4, 2009, at 6:30 p.m. in the Council Chambers, City Hall at 30001 Ladyface Court, Agoura Hills, CA 91301. Notice of the time and date and place and purpose of the aforesaid was duly given. Evidence, both written and oral, was duly presented to, and considered by, the Planning Commission at the aforesaid public hearings. On June 4, 2009, the Planning Commission approved Conditional Use Permit Amendment Case No. 06-CUP-012 on a 5-0 vote, subject to conditions, per Planning Commission Resolution No. 978.

Section 2. An appeal of the Planning Commission's approval of Conditional Use Permit Case No. 06-CUP-012 was timely made by the City Council. A public hearing on the appeal was duly held by the City Council and public testimony was given on July 8, 2009, at 7:00 p.m. in the City Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place, and purpose of the aforesaid public hearing was duly given.

Section 3. Evidence, both written and oral, was duly presented to, and considered by, the City Council at the aforesaid public hearings. The applicant was represented by legal counsel.

Section 4. Pursuant to Section 9673.2.E of the Agoura Hills Zoning Ordinance, the City Council finds as follows:

A. The proposed expanded use is not consistent with the objectives of the Zoning Ordinance and the purposes of the district in which the use is located. Although a nightclub is a permitted use in the Commercial Retail Service (CRS) zone, Agoura Hills Municipal Code Section 9132 of the Zoning Ordinance requires development, including existing development, to be compatible with surrounding land uses, including the protection of the quiet enjoyment of existing residential development, and reducing the level of adverse impacts on existing homeowners associations, or private property. The Planning Commission has received complaints regarding the noise impacts of the live

entertainment occurring within the tenant space, outdoor loitering, and incompatible hours of operation that negatively impact the privacy and enjoyment of the residential neighborhood north of the applicant's tenant space.

B. The proposed expanded use is not compatible with the surrounding area, which is comprised of residential neighborhoods. The residents located north of the applicant's tenant space are negatively affected by excessively disruptive noise and on-site loitering associated with the applicant's current live entertainment use. The proposal to expand the use will intensify these impacts.

C. The proposed expanded use will be detrimental to the public health and safety, or welfare. The proposed live entertainment would be more than just an ancillary use to the primary use of a restaurant, attracting more patrons to the restaurant and on-site loitering and noise impacts at late hours, and likely requiring more public safety service to try to maintain the required compatibility between the proposed expanded commercial use and the residential neighborhood to the north.

D. The proposed expanded use will not comply with each of the applicable provisions of the Zoning Ordinance. Agoura Hills Municipal Code Section 9132 of the Zoning Ordinance requires compatibility with existing and proposed surrounding land uses. The proposed intensification of a restaurant for nightclub use with live entertainment is not compatible with the adjacent residential neighborhood to the north, in that the proposed hours of live entertainment and the increase in occupancy levels within the restaurant will negatively impact the privacy and quiet enjoyment of nearby residents.

E. The proposed expanded use is not consistent with the goals, objectives, and policies of the General Plan. Policy 2.4 of the General Plan Land Use Element calls for infill development to be compatible with adjacent land uses. The applicant's operation of his existing live entertainment has proven to be incompatible with the adjacent residential neighborhood to the north regarding excessively loud noise, on-site loitering, and hours of operation. The proposed expanded use of the restaurant to a nightclub will negatively intensify these impacts to the surrounding neighboring.

Section 6. Based on the aforementioned findings, the City Council hereby overturns the Planning Commission's approval and denies Conditional Use Permit Amendment Case No. 06-CUP-012. This action does not affect the existing Conditional Use Permit provisions.

Section 7. Section 1094.6 of the California Code of Procedure governs the time within which judicial review, if available, of the City Council's decision must be sought, unless a shorter time is provided by other applicable law.

Resolution No. 09-1545

PASSED, APPROVED, and ADOPTED this 12th day of August, 2009, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk