CITY COUNCIL/REDEVELOPMENT AGENCY

AGENDA ITEM 9.02
June 2, 2009

TO: Mayor and City Council

FROM: Michael M. Niblock, Secretary
City Planning Commission

SUBJECT: APPEAL OF THE PLANNING COMMISSION’S REVOCATION OF TWO USE PERMITS UP127-71 AND UP99-72 (PEPE’S CLUB)

RECOMMENDATION

It is recommended that the City Council adopt a resolution, as follows:

1. Resolution denying the appeal and upholding the Planning Commission’s revocation of the two Use Permits (UP127-71 and UP99-72) that allow the on-sale of general alcoholic beverages, dancing and live entertainment in a bar at 2263 East Main Street.

Findings for the above-recommended action have been incorporated into the resolution attached to this staff report.

SUMMARY

The operator of the subject bar (Pepe’s Club) has appealed the Planning Commission’s revocation of the two Use Permits (UP127-71 and UP99-72) that allow the on-sale of general alcoholic beverages, dancing and live entertainment in a bar at 2263 East Main Street.

DISCUSSION

Background

At the Planning Commission’s regularly-scheduled public meeting on August 28, 2008, the Police Department gave a presentation identifying the City’s “top ten” problem locations with respect to police problems and calls for service. That list included the bar on the subject site, known as “Pepe’s Club”. Specifically, the presentation noted that in the then recently-ended one-year period alone, there were 55 calls for service, eight reported crimes and two arrests. The arrests were for weapons possession and public intoxication and the reported crimes were for aggravated assault, robberies, auto theft, and burglary. Based upon the excessive calls for service and the resulting drain on limited police resources, as well as the severity of crimes occurring on or near the premises, the Police Department requested that the Planning Commission consider modifying the conditions of approval of the two Use Permits (UP127-71 and UP99-72)
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for the establishment. Use Permit No. UP127-71 was approved in 1971 to allow the on-sale of general alcoholic beverages and Use Permit No. UP99-72 was approved the following year to allow dancing and live entertainment in the bar. At its regular meeting on December 11, 2008, the Planning Commission considered the proposed modification of the Use Permits, denied the request and directed staff to bring the Use Permits back to the Commission for a public hearing to consider their revocation. The Commission’s determination was appealed to the City Council by the owner of the bar. At its regular meeting on February 24, 2009, the City Council denied the appeal and upheld the Planning Commission’s decision not to modify the two Use Permits.

After considering its staff report and public testimony on the matter at its regularly-scheduled public meeting on April 9, 2009, the Planning Commission revoked Use Permit Nos. UP127-71 and UP99-72. Actions of the Planning Commission take effect ten days after the public hearing if no appeal is filed. On April 17, 2009, the owner of the bar submitted an appeal of the Commission’s revocation of the two Use Permits. Accordingly, the appeal has been scheduled for consideration and determination by the City Council at a duly-noticed public hearing. Because the Planning Commission’s action was appealed, that action is stayed and the Use Permits remain valid pending resolution of the appeal.

Present Situation

Environmental Clearance

The proposal is categorically exempt from the California Environmental Quality Act (CEQA) (Section 10.1, Class 1, of the City of Stockton Guidelines for the Implementation of CEQA and Section 15301, Class 1, of the State CEQA Guidelines).

PUBLIC HEARING DISCUSSION

Staff’s presentation to the Planning Commission at the April 9, 2009 public hearing included a power point presentation by the Police Department and responses to questions from the Commission by staff from the Police Department and Planning Division. Staff from the Police Department reaffirmed that the bar had generated a disproportionate rate of calls for service when compared to other comparable bars in the City. After staff’s presentation, a neighboring property owner spoke in favor of revoking the Use Permits. The business owner’s representative and the property owner, then spoke in favor of the operation of the existing business and in opposition to the revocation. They stated that they would be supportive of the modification of the Use
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Permits’ conditions of approval, rather than revocation. No one else requested to speak and the public hearing was closed.

PLANNING COMMISSION ACTION

Following the public hearing and the Commission’s deliberation, the Planning Commission voted 7 to 0 to revoke Use Permit Nos. UP127-71 and UP99-72, which allow the on-sale of general alcoholic beverages, dancing and live entertainment in the bar at 2263 East Main Street. In their deliberation, the Planning Commission expressed concerns regarding the high rate and nature of the calls for service that have been generated by the establishment over a period of several years.

PUBLIC NOTIFICATION

Notice in the local newspaper at least one time, ten days prior to the public hearing and notice to owners of record as shown on the last equalized tax roll and addresses within 300 feet of the site at least ten days prior to the public hearing (Stockton Municipal Code Section 16-420). In addition, the property owner and business owner must be notified of the hearing by certified mail (Stockton Municipal Code Section 16-470.030).

FINANCIAL SUMMARY

There is no financial impact to City departments.

VOTES REQUIRED

Five (5) votes of the City Council are necessary to overrule or modify the decision of the Planning Commission to revoke Use Permit Nos. UP127-71 and UP99-72.
Respectfully submitted,

MICHAEL M. NIBLOCK, SECRETARY
CITY PLANNING COMMISSION

APPROVED BY

J. GORDON PALMER, JR.
CITY MANAGER

MMN:CVG:fw

Attachments

cc: City Manager w/attachments
    City Attorney w/attachments
    City Clerk w/attachments
    Johnny Ford, Deputy City Manager w/attachments
RESOLUTION DENYING THE APPEAL OF AND UPHOLDING THE PLANNING COMMISSION’S REVOCATION OF TWO USE PERMITS (UP127-71 AND UP99-72) WHICH ALLOW THE ON-SALE OF GENERAL ALCHOLIC BEVERAGES, DANCING AND LIVE ENTERTAINMENT IN A BAR AT 2263 EAST MAIN STREET

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS follows:

The City Council hereby denies the appeal of and upholds the decision by the Planning Commission to revoke Use Permit Nos. UP127-71 and UP99-72, which allow the on-sale of general alcoholic beverages, dancing and live entertainment in a bar at 2263 East Main Street, based on the following findings:

1. The operation of the use conflicts with the general findings for Use Permits found in Section 16-575.050.A of the Stockton Municipal Code (SMC); specifically, endangering and jeopardizing public convenience, health, interest, safety and general welfare of persons residing or working in the neighborhood of the use;

2. The operation of the use has become detrimental to the health, safety and/or general welfare of the surrounding area and the bar’s manner of operation constitutes a nuisance; and

3. Revocation of the two Use Permits (UP127-71 and UP99-72) is consistent with the findings for revocation contained in SMC section 16-470.030.B.1, because police problems associated with the use (as evidenced by the excessive calls for service related to the bar) have resulted in it becoming detrimental to public safety in the area surrounding the subject site.

PASSED, APPROVED and ADOPTED ____________________________.

ATTEST: ____________________________________________________

KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

ANN JOHNSTON, Mayor
of the City of Stockton

City Atty Review
Date May 27, 2009