

**MINUTES
PLANNING COMMISSION REGULAR MEETING
July 7, 2020**

This meeting was conducted as a video conference meeting in a remote location. All votes during the meeting were conducted by roll call.

CALL TO ORDER

The regular meeting of the Planning Commission of the City of Highland was called to order at 6:00 p.m. by Chair Hamerly through video conference.

Present:	Chair	Randall Hamerly
	Vice Chair	John Gamboa
	Commissioner	Michael Hall
	Commissioner	Tamara Zaman

Absent:	Commissioner	Rich Haller
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Staff Present:	Lawrence Mainez, Community Development Director
	Kim Stater, Assistant Community Development Director
	Salvador Quintanilla, Associate Planner
	Camille Goritz, Administrative Assistant III

The Pledge of Allegiance was led by Chair Hamerly

COMMUNITY INPUT (ITEMS NOT ON THE AGENDA)

None

CONSENT CALENDAR

1. Minutes from the June 16, 2020 Regular Meeting.

A MOTION was made by Commissioner Gamboa, seconded by Commissioner Zaman, to approve the minutes, as submitted. Motion carried on a roll call vote, 4-0, with Commissioner Haller absent.

PUBLIC HEARING

2. Conditional Use Permit (CUP) No. 20-004 requesting for an expansion of an existing State of California Department of Alcohol Beverage Control (ABC) Type 47 (On-Sale General - Eating Place) license for an approximate 420 square-foot outdoor dining area for an existing restaurant (JJ's Sports Bar and Grill) in the Carino Plaza. (7955 Webster Street, Unit No. 1)

Chair Hamerly opened the public hearing.

Associate Planner Quintanilla presented the staff report.

Administrative Assistant Goritz read the public comment received from Caroline Welker.

Commissioner Zaman stated there are 21 seats in the outdoor area; due to COVID-19 and social distancing how will it be reduced.

Associate Planner Quintanilla stated based on the COVID-19 regulations JJ's will modify the seating area to meet the social distancing requirements that need to be met for outdoor dining facilities.

Commissioner Zaman stated there are three trash enclosures, does this mean that the one trash enclosure nearest to JJ's will have to be expanded to be three bins?

Associate Planner Quintanilla stated while speaking with Public Works department the trash enclosure nearest to JJ's does not have a sufficient amount of size for the third bin.

Commissioner Zaman asked if the trash enclosure has to be expanded and how that will impact parking.

Associate Planner Quintanilla replied it should not impact parking because there is space to expand into the landscaping for the trash enclosure.

Chair Hamerly asked if the trash enclosure expansion will put them closer to Boulder.

Associate Planner Quintanilla stated it depends on how they modify it. The trash enclosure could be screened with additional landscaping on the Boulder side.

Chair Hamerly stated concerns about the trash enclosure expansion towards the north and east towards Boulder. That is a primary arterial and landscaping would be essential.

Associate Planner Quintanilla stated staff will work with the applicant to make sure to keep the aesthetic design along Boulder.

Chair Hamerly asked how the 420 additional square foot of occupied space has been factored in the site plan for parking.

Associate Planner Quintanilla stated it has been reviewed in the staff review permit and it meets the requirements.

Chair Hamerly asked how many spots were required for the total occupant load from the occupants that were on site and how many spaces are available on site.

Associate Planner Quintanilla stated the numbers for parking were reviewed under the staff review permit. It was reviewed by the Community Development Director and Assistant Community Development Director. It was previously approved and the requirements were met. The parking spaces are all on site.

Commissioner Gamboa stated in regard to the parking, if the amount of spacing outside increases, doesn't that increase the amount of people that would be served in the patio.

Associate Planner Quintanilla stated by adding the additional square footage of the outdoor dining staff calculated the additional square footage in the parking ratio.

Therefore, it was taken in consideration with the staff review permit and it was approved by the Fire Marshal and the Building and Safety department.

Commissioner Gamboa stated during the weekend people park illegally in the parking area.

Associate Planner Quintanilla stated originally before the outdoor expansion 20 parking spaces were required for the restaurant. Now with the outdoor expansion built the requirement is 25 parking spaces for JJ's restaurant.

Commissioner Hall stated concerns with parking during peak hours. People are parking in the dirt and the car wash area. It doesn't seem to me that there is enough parking for the outdoor area expansion.

Joe Swidan, Applicant stated there are parking spaces available in the parking lot for customers unless there is a special event scheduled.

Chair Hamerly asked approximately how many customers attend a special event.

Joe Swidan replied about 80 customers.

Commissioner Gamboa stated there has been one fatality at the location.

Darren McBay, Representative to the Applicant stated it occurred in the parking lot at the restaurant. It was a love triangle and they accumulated a bar tab of about \$38 so in our opinion no one was drunk. The incident lasted seconds and the couple was only there for an hour before the incident erupted in the parking lot.

Commissioner Gamboa stated he has seen unruly patrons in the parking lot during the weekends. This is what concerns me, if there was a fatality what else is transpiring.

Joe Swidan stated on Friday and Saturday night there is three certified security officers from 7 p.m. – 2 a.m. This incident happened on Valentine's Day, we have footage of only 14 customers at the restaurant. This happened out of the blue, it occurred in the afternoon. It was really terrible incident, but since that day we have added more security over the weekend.

Commissioner Gamboa stated he has gone to businesses in that location and had to maneuver around groups of people in the parking lot that are chatting and not moving. If there is going to be an outdoor patio, what controls can you have if you are already having issues outside.

Darren McBay stated this is why we need the outdoor patio, because people go and smoke in front of the restaurant. If they are permitted to smoke out in the outdoor dining area and we have a sequestered area for them, it makes our job easier to regulate the area. We have better control of the situation.

Commissioner Gamboa stated he was referring to the parking lot.

Darren McBay stated many times people will go out to go smoke in the parking lot, and we cannot deny that, but if people want to smoke and we can keep them in the fenced off area this will make it more of a secure safe environment.

Joe Swidan stated they also hired an outside security company that will patrol the area. There is high traffic during the night, but during the day it is completely different so that's why we hired a security company for the evening. There is a lot of traffic that goes through the shopping center, and we are trying to control the best we can. We took a lot of precautions to make sure everyone is safe.

Commissioner Hall stated he has been to the Carino Plaza on several occasions. There are people in the parking lot roaming around, drunk, going up to people in the car wash, parking in the dirt lot across the street, verbal arguments, and fights. What will you do to control that situation?

Joe Swidan replied they have hired security. We do not have any incidents according to the police reports, we don't have these issues. We have 24 security cameras installed. There is a security manager that is in the office that watches the video cameras.

Commissioner Hall stated he has seen unruly people out in the parking lot and the mere fact that there are not police reports on file doesn't necessarily mean that things are not happening.

Joe Swidan stated they have been taking precautions that they have not had any issues.

Dan McBay stated if we are already approved for food, we are going to have the people out there anyways. The answer that we are looking for is the security element, we have taken that seriously.

Chair Hamerly stated the main entrance and the path of egress runs straight through the courtyard. The dimensions indicate there is 73 inches approximately from center line to center line of two tables, but given the density that is out there that would not permit a 48 inch clear path of travel through the primary entrance.

Joe Swidan stated they met all the condition. There is a gate to exit the building and there are two existing doors. There is plenty of pathway for handicap access, fire exit, and push bars on the doors.

Chair Hamerly asked if the primary entrance was the double doors.

Joe Swidan replied the primary entrance is the center; it is the first door on the right. The other two doors on the left are exits. Everyone comes through the main entrance and there is an exit on the patio.

Chair Hamerly stated concerns about if there is a big event where there needs to have egress, is there something marked off so there won't be obstructions within a required path of egress since it would be a safety issue.

Joe Swidan stated the tables are four feet apart from the door. The tables are completely out of the way of the exit and entrance of the property. On the patio the tables are not in the way of customers exiting the premises.

Dan McBay asked if it is better to delineate something on the ground, for instance where the door swings out.

Chair Hamerly replied that's exactly what he had in mind. The dining area outside is highly mobile as it should be, but there needs to be some way of delineating the area that has to remain open. There needs to be something that anyone could understand for it to remain clear. In the afternoon the courtyard could get hot, you had mentioned umbrellas or some sort of shading vegetation over the tables.

Joe Swidan stated they are thinking of adding umbrellas and misters to keep it cool.

Chair Hamerly stated concerns with the accessibility. The only trouble is your calculation is the face of that curb which also functions as a wheel stop in the parking lot. If someone pulls up and rest their wheels on that curb you are potentially losing 20-24 inches of that clear path of travel which will reduce it down to possibly by 36 inches. Is there any plan on putting additional concrete wheel stops?

Darren McBay stated they could put a wheel stop in front of the gate so they have enough egress.

Community Development Director Mainez stated there are a couple of conditions to add to the application.

Associate Planner Quintanilla stated staff has prepared a condition for the path of travel for the outdoor dining area and the wheel stops. The applicant shall submit a plan delineating a handicap path of travel which will be reviewed and approved by the Fire Marshal and Building Official. The plans shall include a placement of wheel stop along the path of travel.

Chair Hamerly stated it would be a parking space adjacent to the path of travel.

A MOTION was made by Commissioner Zaman, and seconded by Chair Hamerly to:

Adopt Resolution 2020 -____, approving the expansion of Type 47 (On-Sale General – Eating Place) ABC license for the establishment of an approximately 420 square-foot outdoor dining area for an existing restaurant (JJ's Sports Bar and Grill) in the Carino Plaza.

Motion failed, on a roll call vote, 2-2, with Commissioner Haller absent.

Community Development Director Mainez stated the motion failed since there was not an action taken on item No. 2. My recommendation is staff will add another condition that requires the applicant be reviewed by the Planning Commission in six months. That way the Planning Commission is able to evaluate some of the comments and whether the applicant is aggressively addressing the comments that were made tonight. I would suggest we add in concept condition No. 18, that the Conditional Use Permit (CUP) amendment be evaluated in six months of that date from tonight.

Chair Hamerly asked given the two no votes would the additional condition No. 18 move the vote one way or the other.

Community Development Director Mainez asked if there is any interest to promote another motion that would include condition No. 18. With a 2-2 split there is no action. Is there any questions the staff could answer or the applicant can do for this application to move forward.

Chair Hamerly stated we could continue this application to the next meeting scheduled on July 21, 2020 when we have all five Commissioners present or we let this stand as a no action which becomes an appeal for City Council.

Community Development Director Mainez replied a 2-2 vote cannot be appealed. I suggest the Commissioners to dialogue and persuade at least one Commissioner or both to either deny the project or approve the project. We cannot move forward until we finish the debate tonight.

Chair Hamerly stated in the interest of expediting the process I would be willing to change my vote to a no and that would allow the appeal to proceed without having to wait for a minimum of two weeks for the continuation.

Community Development Director Mainez suggested reintroducing the motion.

A MOTION was made by Commissioner Zaman to:

Adopt Resolution 2020 -____, approving the expansion of Type 47 (On-Sale General – Eating Place) ABC license for the establishment of an approximately 420 square-foot outdoor dining area for an existing restaurant (JJ's Sports Bar and Grill) in the Carino Plaza.

Motion failed, on a roll call vote, 1-3, with Commissioner Haller absent.

Chair Hamerly stated the motion failed and now be appealed to the City Council.

Community Development Director Mainez stated the application was a request to expand the ABC license to allow outside use of alcohol. There was a motion to approve the application tonight, which was denied. For the record each one of the denials voting no on the application could state in the record their finding to support a denial. Staff will come back and we will rewrite the resolution with findings of fact to support the denial.

Commissioner Gamboa stated the reason for denial is the lack of the control of unruly patrons in the parking lot. The allowance of outdoor alcohol consumption would be detrimental to the well-being of the Carino Plaza and area.

Commissioner Hall concurred with Commissioner Gamboa's statement.

Chair Hamerly stated the reason for denial was there would be any resolution or any conditions that could be placed on this CUP application that would allow breaking this tie in the affirmative. In difference to the applicant needing resolution in order to appeal I change my vote to deny so there is an action taken during this meeting.

Receiving no response, the public hearing was closed.

A MOTION was made by Commissioner Gamboa, and seconded by Commissioner Hall to direct staff to prepare a resolution for denial of the project and brought back at the next regularly scheduled meeting.

Motion carried, on a roll call vote, 4-0, with Commissioner Haller absent.

Chair Hamerly stated to direct staff to bring a denial resolution to the next meeting scheduled July 21, 2020. For clarification the first two motions were for approval and the third motion was to direct staff to rewrite the resolution.

ANNOUNCEMENTS

None

ADJOURN

There being no further business, Chair Hamerly declared the meeting adjourned at 7:28 p.m.

Submitted by:

Approved by:

Camille Goritz, Administrative Assistant III
Community Development Department

Randall Hamerly, Chair
Planning Commission