

**CITY OF ANTIOCH
PLANNING COMMISSION MINUTES**

**Regular Meeting
6:30 p.m.**

**March 3, 2010
City Council Chambers**

CALL TO ORDER

Vice Chair Johnson called the meeting to order at 6:30 p.m. on Wednesday, March 3, 2010, in the City Council Chambers. He stated that all items that can be appealed under 9-5.2509 of the Antioch Municipal Code must be appealed within five (5) working days of the decision. The final appeal date of decisions made at this meeting is 5:00 p.m. on Thursday, March 11, 2010.

ROLL CALL

Present: Commissioners Westerman, Johnson, Azevedo, Travers, Baatrup and Manuel
Absent: Chairman Langford
Staff: Senior Planner Morris
Assistant City Engineer Warren
Community Development Technician Stahl
City Attorney Nerland
Minutes Clerk Hammers

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

None

CONSENT CALENDAR

1. **Approval of Minutes**
 - A. **January 6, 2010**
 - B. **January 20, 2010**

On motion by Commissioner Azevedo, and seconded by Commissioner Manuel, the Planning Commission approved the Minutes of January 6, 2010 and January 20, 2010.

AYES: Westerman, Johnson, Azevedo, Travers, Manuel, Baatrup
NOES: None
ABSTAIN: None
ABSENT: Langford

END OF CONSENT CALENDAR

CONTINUED HEARING

2. **UP-07-14/AR-07-19 T-Mobile** is requesting approval of a use permit to install new cellular antennas and roof top equipment at Kaiser Medical Center located at 4501 Sand Creek Road. The project site is located at 5201 Deer Valley Road (**APN 057-022-017**).

Staff recommended that this item be continued to April 21, 2010.

On motion by Commissioner Travers, seconded by Commissioner Westerman, the Planning Commission members present unanimously continued UP-07-14/AR-07-19 to April 21, 2010.

3. **UP-08-20 – QIN’s Bistro and Bar** requests a sixty day review of their use permit for live entertainment at the existing restaurant located at 5007 Lone Tree Way in the Lone Tree Landing Shopping Center (**APN 056-012-024,025**).

After discussion between Vice Chair Johnson and Community Development Technician Stahl regarding the applicant not being present, it was decided that this item would be moved down on the agenda to allow time for the applicant to arrive.

4. **UP-09-10 – On Air LLC**, on behalf of Verizon Wireless, requests approval of a use permit to allow construction of a wireless telecommunications facility at the PG&E tower located off Hillcrest Avenue (**APN 068-100-024**).

Kim Stahl, Community Development Technician, provided a summary of the staff report dated February 25, 2010.

OPENED PUBLIC HEARING

Applicant, Aaron Salars of On Air LLC, stated that he had read the staff report, that he was satisfied with all of the conditions, and that they were ready to move forward.

Vice Chair Johnson asked applicant if he knew the number of customers that the cell site would serve to which applicant stated that although it was hard to determine how many people would be served, that there were several objectives for the cell site. He went on to state that there was a dead spot for cell service on Highway 4, that service was poor in the area of Hillcrest and Highway 4 where a new Verizon store had just opened in the shopping center, and that this would fill in the low spot and increase coverage to the community residences.

Commissioner Azevedo stated that it appeared the site contained a lot of weeds and asked applicant if they had been asked to cut the weeds, or would be cutting the weeds, for such things as fire breaks to which applicant stated that although they had not been asked, they would not be opposed to doing that if required and that there was a fire

turnaround on the site. Commissioner Azevedo then discussed with CDT Stahl the Fire Department's requirements and the fact that PG & E is the owner of the parcel.

CLOSED PUBLIC HEARING

Vice Chair Johnson clarified with CDT Stahl that although the pictures of the site provided do not appear to show any roads onto the parcel for emergency vehicles, that there is a driveway and that the Fire District's plans do set specific conditions for the project.

City Attorney Nerland interjected that she wished to clarify that anyone wanting to speak of the project could do so, not merely someone opposing the project.

RESOLUTION NO. 2010-06

On motion by Commissioner Westerman, and seconded by Commissioner Manuel, the Planning Commission approved the use permit to allow a wireless telecommunications facility consisting of panel antennas, to be mounted on an existing PG&E tower, and associated equipment located off Hillcrest Avenue, subject to the conditions.

AYES: *Westerman, Johnson, Azevedo, Travers, Baatrup and Manuel*
NOES: *None*
ABSTAIN: *None*
ABSENT: *Langford*

5. **V-10-01 – Ken Melton** requests approval of a lot merger and a variance from minimum parking requirements for the Delta Bowl bowling alley located at 3300 Delta Fair Boulevard, west of Somersville Road (**APN 074-122-037**).

Alexis Morris, Senior Planner, provided a summary of the Staff Report dated February 25, 2010.

Commissioner Azevedo clarified with City Attorney Nerland that the Planning Commission would need to make two separate findings this evening, one for the variance and one for the lot merger.

Commissioner Travers asked Senior Planner Morris if the striping of the parking lot would happen right away or if they were looking at a fire year timeline to which Senior Planner Morris stated that she believed the applicant planned to do the striping as soon as the lot merger was complete.

OPENED PUBLIC HEARING

Applicant, Todd Anderson with Robert A. Karn & Associates, indicated that he was representing Ken Melton who was also present. He thanked staff and stated that they had reviewed the report and concurred with their findings.

Commissioner Travers questioned applicant if the 5.5 or 6 stalls per lane was standard, if the only qualification was by lanes, and noted that some of the larger bowling facilities have less parking. Applicant stated that 6 stalls per lane was excessive and that a study was done for local bowling alleys and that 5 to 5.5 was found to be standard in the industry. Applicant went on to say that the parking lot is seldom full and that the standard per lane would remain the same even if 10,000 sf were added to the building.

Commissioner Travers clarified with the applicant that the striping plans would be submitted as soon as the lot merger was complete so that restriping could commence immediately.

Commissioner Travers then asked applicant if changing the entrance would improve the facility to which applicant stated that orienting the entrance to the east would improve access to the site and aid in visibility of the site.

Commissioner Azevedo clarified with applicant that the parallel parking spaces on west side of the building was counted and included in the total count of the parking spaces.

Commissioner Travers then asked applicant if they had read and agreed with all of the conditions contained in the staff report to which applicant stated that they had and that they were in agreement.

CLOSED PUBLIC HEARING

Commissioner Travers stated that he was in favor of enhancing the facility, that it would benefit the community to clean it up, and that he could stand behind the project.

Vice Chair Johnson stated that he had never seen the parking lot full and that he also was able to support the proposal.

The Planning Commission agreed to vote on both resolutions together.

RESOLUTION NO. 2010-07

On motion by Commissioner Travers, and seconded by Commissioner Azevedo, the Planning Commission approved the applicant's request for a variance to change the parking requirements from 6.0 stalls per lane (216) to 5.5 stalls per lane (198).

RESOLUTION NO. 2010-08

On motion by Commissioner Travers, and seconded by Commissioner Azevedo, the Planning Commission approved the merger of two contiguous parcels located on Delta Fair Boulevard, east of Somersville Road, Parcel 1, MS 4-76 (46 PM 34) and a portion of Parcel B, MS 8-79 (85 PM 4) (PW 371-RA-50) and does hereby direct the City Engineer to record a certificate evidencing said merger subject to the conditions.

AYES: *Westerman, Johnson, Azevedo, Travers, Baatrup, Manuel*
NOES: *None*
ABSTAIN: *None*
ABSENT: *Langford*

6. **Z-10-02 – The City of Antioch** is proposing to amend Municipal Code Section 9-5.4012 of the Residential Development Allocation Ordinance to extend the ordinance sunset date to May 1, 2011.

Alexis Morris, Senior Planner, provided a summary of the Staff Report dated February 25, 2010.

Vice Chair Johnson questioned staff about the one year extension being enough time to which Senior Planner Morris stated that even given the first and second readings as well as the noticing requirements, it was her belief that one year would be ample time.

OPENED PUBLIC HEARING

There being no one wishing to speak, the public hearing was closed.

CLOSED PUBLIC HEARING

Commissioner Azevedo stated that he had met as part of the subcommittee, that the subcommittee had some preliminary discussion as to which direction to go with the RDA allocation, and that he was in support of recommending changes to the council which could include discontinuing the RDA program.

RESOLUTION NO. 2010-09

On motion by Commissioner Manuel, and seconded by Commissioner Travers, the Planning Commission recommends that the City Council Approve an amendment to Section 9.5-4012 of the Antioch Municipal Code in order to extend the sunset date of the ordinance to May 1, 2011 (Z-10-02).

AYES: *Westerman, Johnson, Azevedo, Travers, Baatrup, Manuel*
NOES: *None*
ABSTAIN: *None*
ABSENT: *Langford*

Vice Chair Johnson confirmed with CDT Stahl that applicants for Qins were not yet present and the intent to proceed with the other agenda item.

NEW ITEM

7. **AR-09-15 – Union 76 Station** - Gursharnjeet Cheema requests design review approval of re-imaging of an existing Union 76 service station to a Chevron service station located at 2413 A Street.

Kim Stahl, Community Development Technician, provided a summary of the staff report dated February 24, 2010.

CDT Stahl stated that Chairman Langford has requested that a condition be added for flush mounted lighting under the canopy to be consistent with existing Chevron updates and corporate branding.

OPENED PUBLIC HEARING

Applicant, John Sevo, general contractors and the owner's representative stated that they had reviewed all of the conditions and were agreeable with all of them.

Vice Chair Johnson asked applicant if he was agreeable with the flush mounted lighting under the canopy to which applicant Sevo stated although they agreed, the lighting would actually be LED lighting which would save money given that the lights last 17 to 20 years and are virtually maintenance free.

Vice Chair Johnson then clarified with the applicant that the bricks would be removed. Applicant stated that the bricks were quite shabby and that they would be removed and the base would be patched.

CLOSED PUBLIC HEARING

Commissioner Azevedo asked staff about the telephone booth on the site and whether the ownership of the booth was known. CDT Stahl stated that although she was not aware of who actually owned the booth, she would look into it and would follow up with the Planning Commission.

Commissioner Manuel questioned staff about the parcel adjacent to the gas station and if the owner of the parcel was known. He also stated that there appears to be a spillage of vehicles onto that lot from time to time possibly due to repair work being performed. CDT Stahl stated that although she did not have the ownership information, that automobile repairs are conducted at the gas station site and that there have been code enforcement issues in regards to the inoperable vehicles in the past.

City Attorney Nerland clarified with Commissioner Azevedo about his concerns with the telephone booth dealing with the appearance of the booth in terms of landscaping and graffiti on the booth and the need to paint the booth or remove it altogether. City Attorney Nerland went on to state that the Police Department has worked on removing telephone booths due to cell phones and the lack of need for telephone booths within the City.

The public hearing was opened briefly to clarify with the applicant that although ownership of the telephone booth was not known, that the owner would probably be agreeable to having it removed and that he would speak with the owner.

Vice Chair Johnson clarified with CDT Stahl that a condition for flush mounted lighting would need to be included.

RESOLUTION NO. 2010-10

On motion by Commissioner Azevedo, and seconded by Commissioner Travers, the Planning Commission approved AR-09-15 the re-image of an existing service station to Chevron service station located at 2413 A Street subject to the conditions and with the following addition:

- 18. The applicant will provide flush mounted lighting onto the bottom of the canopy.**

AYES: *Westerman, Johnson, Azevedo, Travers, Baatrup and Manuel*
NOES: *None*
ABSTAIN: *None*
ABSENT: *Langford*

- 3. UP-08-30 – QIN’s Bistro and Bar** requests a sixty day review of their use permit for live entertainment at the existing restaurant located at 5007 Lone Tree Way in the Lone Tree Landing Shopping Center (**APN 056-012-024,025**).

City Attorney Nerland stated that she wished to put onto the record that it was 7:10 p.m., that this item was on the agenda tonight for 6:30 p.m. which was communicated to the applicant, that applicant had not informed staff of any problems with the time, and that given that the whole agenda has been completed and applicant not being present that it is the Commission’s desire to continue with this item at this time.

Kim Stahl, Community Development Technician, provided a summary of the staff report dated February 25, 2010. She stated that Captain Cantando from the Police Department is present tonight for questions.

Commissioner Travers clarified with CDT Stahl that the Police Department has received 26 calls for police service since the last meeting and that prior to the last meeting approximately 21 calls for service had been received.

Vice Chair Johnson questioned CDT Stahl about Project Specific Condition 22 regarding the placement of cameras and asked if this was something that can be made subject to the Police Department’s approval. CDT Stahl stated that this condition is included, that the Police Department has been on site, that the equipment has been repaired and that the Police Department has an officer who has expertise in camera operations who would be sent out to approve the equipment.

Commissioner Azevedo asked staff if the restaurant was under brand new management to which CDT Stahl stated that in addition to new management, that the promoters were no longer employed by Qins, that the DJ Entertainment has been stopped the last two weekends and that the managers of Qin’s are very receptive and cooperative.

Commissioner Baatrup asked staff if given that the owners are now able to bring back the restaurant-like operations without a problem that there is some latitude that the

owners can put a couple of security guards at the discretion of the Police Department so as not to create an image of the %club-like+ environment that was present before returning to the restaurant environment. CDT Stahl stated that she preferred to have Captain Cantando address the issue. Captain Cantando stated that these concerns were discussed at the February 22 meeting with Qinq\$, and that given that it would take some time for the reputation of the business to circulate, that guards would be needed until everyone understands the restaurant environment as opposed to the previous environment.

Commissioner Baatrup questioned if this condition obligated two security guards until the next review period or if the Police Department can decide whether those guards are warranted for the full period. City Attorney Nerland stated that there would be two options, one option to require the guards unless waived by the Police Department and the other option would be to look at the condition at the next Planning Commission review hearing according to the time period decided by the Commission.

Commissioner Manuel stated that the last time these issues were before the commission, the bottom fell out and things went in a different direction. He went on to state that if the new manager is genuine in what he intends to do in the future and changing from a club like atmosphere back to a restaurant, he would be supportive.

Commissioner Travers questioned Captain Cantando about the incident that happened on Highway 4 involving a fatality and if this incident started at Qinq\$ to which Captain Cantando stated that the incident had begun at Qinq\$ but because the camera equipment was inferior it presented a road block in their investigation. He stated that the video recording equipment was sent off to be repaired and that the Police Department now has an expert in house to monitor it.

Commissioner Travers clarified with Captain Cantando that it will take some time to change the image of the facility and that the owner is very amenable to having the security guards.

Commissioner Baatrup questioned Captain Cantando about the expectations for the security guards and if it is clear to the security company of what they are expected to do. Captain Cantando stated that the Police Department does not regulate the security company being used by Qinq\$ but the officers are current or ex law enforcement who understand the law. He went on to say that the security has been doing a good job given the numbers of patrons showing up and the DJ atmosphere problem.

Vice Chair Johnson clarified with Captain Cantando that the numbers of patrons vs. security guards was overwhelming.

Commissioner Baatrup stated his concerns that the owners are not here, that they are relying on Captain Cantando for answers and feels the owners who may be absentee owners needs to take a more active role.

Captain Cantando stated that the owners had given that impression of wanting to get back to a restaurant/jazz environment but that they had other businesses outside of Antioch.

CDT Stahl interjected that the owners plan to take over many of the day to day operations and that the last event indicated to them that they needed to take control.

Commissioner Travers stated that the owners not being present tonight speaks volumes and given that the two manager team running the store has been before the Commission on numerous occasions, he feels that 90 days is a long time which is tying up resources.

OPEN PUBLIC HEARING

No public comments.

CLOSED PUBLIC HEARING

Commissioner Azevedo stated that since this establishment has been before the Commission several times saying the right things and agreeing with all conditions, he sees no good faith effort taken to meet those and he is inclined to say enough is enough. He stated that ultimately what happens to this restaurant lies with the owners, that they knew they were being watched and believes that they need to start more hands on to make sure their investment is not going down the drain. He stated he was appalled at the use of wands only on males and allowing minors into the events. He stated his opinion that given several discussions with Qins that they have seen zero good faith efforts made by the owners and managers of the restaurant and feels they have not earned the right to continue to have live entertainment. Commissioner Azevedo stated that although he doesn't expect any improvement in 60 or 90 days from now, he feels the review should be in 30 or 60 days. He indicated that given that no applicant is present to convince the Commission that they need another chance, he is inclined to vote no on any resolution for live entertainment.

Commissioner Manuel suggested that because of the past, it was his opinion that the ability to have live entertainment should be suspended returning the establishment back to a basic restaurant that wouldn't need any security and then the Commission could choose to look at the live entertainment aspect.

Commissioner Westerman stated that given that no representative is present tonight to convince them otherwise, that he is not inclined to support this use permit.

Commissioner Baatrup stated that the Commission should consider suspension or consider complete banning of live entertainment until applicant is compliant with the requirements they have had.

Vice Chair Johnson stated his concerns with wand of males only and that the recording equipment was not working. He stated that to create a restaurant/jazz environment would require maybe one piano instead of karaoke but was concerned that

if the Commission does not approve the live entertainment permit and that there are no security guards, there may be a time period when the live entertainment patrons visit the establishment and there are no guards present.

City Attorney Nerland interjected and suggested a five minute recess to talk to staff about options to provide to the Commission.

After five minute recess, roll was taken. All Commissioners were present except Chairman Langford who was absent.

City Attorney Nerland proposed to the Planning Commission that they consider amending Conditions to what the Commission would want Qinq to operate under now with a timeframe to come back in perhaps 60 days or whatever makes sense and that a revocation of the live entertainment permit be agendized for another date. She stated that although the Planning Commission has the right to act without the applicant present, she feels that given that revoking Use Permits doesn't happen too often that procedurally the safest course of action would be to notice the possible revocation of the live entertainment and prepare resolutions with all findings.

Vice Chair Johnson clarified with City Attorney Nerland that review is brought back in a time specified and to bring forward notices of the Planning Commission's option to revoke the live entertainment. City Attorney Nerland stated that the Planning Commission could revoke, modify or leave the conditions as they are.

Vice Chair Johnson stated that given that applicants are not here tonight and that use permits are not revoked frequently, it is his opinion that the Commission not act hastily and he would support recommending the review in 60 days.

Vice Chair Johnson stated that he would support recommendation to make review in 60 days.

Commissioner Travers questioned if this would become part of our resolution tonight to which City Attorney Nerland stated that Condition No. 7 be changed from 90 days to 60 days for review, and possibly revocation of the live entertainment permit with staff noticing the resolution.

Commissioner Baatrup discussed with CDT Stahl limiting the live entertainment with restrictive language, such as time of day, hours, etc.

CDT Stahl clarified that it was just made clear to her that the recording equipment did record but that the tape could not be removed from the device for evidence purposes.

Commissioner Azevedo discussed with CDT Stahl the camera's location and asked staff if management knew that the intent of the cameras would be to remove the tapes. CDT Stahl indicated that the cameras record over the existing footage after 14 days and that although Qinq was aware of the expectation to remove the tapes, that they were not aware that they were broken.

Captain Cantando clarified that it was his belief that the images were digital, that all information was recorded but that the information could not be taken right there but needed to be taken to the factory. He stated that this was a learning experience and that the company knew the Police Department's expectations of the video equipment but does not think that they tested the equipment.

Commissioner Travers asked if cameras were at the front door to which Captain Cantando stated that although the cameras were at the front door, that they were not directed where the Police Department wanted them to be.

Commissioner Baatrup stated that he was uncomfortable about modifying conditions to address the Commission concerns addressed here and felt that while limitations could be done, the revocation should come back.

City Attorney Nerland clarified that amendments could be done but that a revocation should be brought back.

Commissioner Azevedo discussed Administrative Use Permits with staff and the fact that although AUP applications are reviewed by the Police Department and are issued at staff level, that all AUP applications are not approved.

RESOLUTION NO. 2010-05

On motion by Commissioner Travers, and seconded by Commissioner Westerman, the Planning Commission approved subject to the following changes:

- 7. That the applicant shall return to the Planning Commission in 60 days for a review of the implementation of the new live entertainment format.***

- 11. Live entertainment and/or amplified music may occur pursuant to the following schedule and shall not occur on any other day or time not listed below:***
 - Sunday through Saturday 12:00 p.m. to 11:00 p.m.***

AYES: Westerman, Johnson, Azevedo, Travers, Baatrup and Manuel
NOES: None
ABSTAIN: None
ABSENT: Langford

City Attorney Nerland stated the direction that when this matter is brought back in 60 days, a motion be provided to remove the live entertainment.

ORAL COMMUNICATIONS

Senior Planner Morris announced that the March 17, 2010 Planning Commission meeting will be cancelled and that there is potential that the April 7 meeting may be cancelled as well.

WRITTEN COMMUNICATIONS

Nothing was reported.

COMMITTEE REPORTS

Commissioner Azevedo stated that he was absent at the last Transplan meeting.

Commissioner Travers stated that he and Commissioner Azevedo sat in with other officials to discuss the RDA committee, the future of it and entertaining a motion to extend one more year.

ADJOURNMENT

Vice Chair Johnson adjourned the Planning Commission at 8:04 p.m. to the next regularly scheduled meeting on March 17, 2010.

Respectfully Submitted,
Cheryl Hammers