



ACTION MINUTES
Planning Commission
Regular Meeting
7:00 p.m. – Thursday – November 5, 2009
City Council Chambers, 809 Center Street

Call to Order — 7:02 P.M.

Roll Call —

Present — Commissioners R. Quartararo, Chair; S. Daly; D. Foster; B. Schultz;
M. Tustin; J. Warner

Absent — Commissioner Kasparowitz (with notice)

Staff — J. Rebagliati, Director; A. Khoury, Assistant Director; E. Marlatt,
Principal Planner; M. Ferry, Associate Planner; N. Concepcion,
Associate Planner; M. Schwarb, Recorder

Audience — 25-30

Statements of Disqualification — None

Oral Communications — None

No action shall be taken on these items.

The Chair may announce and set time limits at the beginning of each agenda item.

Announcements — None

Approval of Minutes — October 1, 2009

ACTION: Commissioner Foster moved and Commissioner Warner seconded that the minutes of October 1, 2009 be approved. The motion passed 3-0-3 with Commissioners Warner, Foster and Tustin voting aye and Commissioners Quartararo, Schultz and Daly abstaining.

Consent Agenda — None

Items on the consent agenda are considered to be routine in nature and will be acted upon in one motion. Specific items may be removed by members of the Planning Commission or members of the public for separate consideration and discussion. Items removed will be considered in the order they appear on the agenda.

Items Removed from the Consent Agenda — None

Public Hearings —

1. **1209 Pacific Ave/110 Pearl AlleyCP09-0022** **APN 005-075-03**
Major Modification to SUP #08-164 which established a low-risk alcohol outlet (Type 47 license) with entertainment in the CBD zone district to modify the permit and establish a high risk alcohol outlet (Type 48 license). (Environmental Determination: Categorical Exemption) (B. & T. Rader, owners/filed: 9/22/09) NC
RECOMMENDATION: That the Planning Commission acknowledge the environmental determination and approve the Major Modification to Special Use Permit 08-164.

Assistant Director Khoury introduced Associate Planner Concepcion who presented the staff report.

Applicant, Michael Pitt, spoke regarding the business and the desire to change the liquor license from 47 to 48.

The Commissioners asked questions regarding:

- Reasons for the change
- Bathrooms
- Security & safety
- Differences between type 47 and 48 Alcohol licenses

Public Hearing was opened.

Rick Martinez of the Santa Cruz Police Department spoke regarding the business and its history as mostly a night club rather than a restaurant. He indicated that Mr. Pitt is a responsible business owner and would like to see him succeed.

The Public Hearing was closed.

Commissioner Warner thanked Officer Martinez for his comments.

Commissioner Tustin commented on the effectiveness of Conditional Use Permits tied to owners instead of property and Commissioner Foster agreed.

ACTION: Commissioner Schultz moved and Commissioner Warner seconded that the Planning Commission acknowledge the environmental determination and approve the Major Modification to Special Use Permit 08-164 with the addition of condition 34. "Project shall meet all the requirements of the Fire Department including but not limited to the submittal of the required fire sprinkler certification." The motion was approved by a vote of 6-0, Commissioners Quartararo, Warner, Tustin, Schultz, Foster and Daly in favor.

2. **Ordinance Amendment** **A09-0003** **City-wide**

Amendment to Title 24 of the Santa Cruz Municipal Code and the Local Coastal Implementation Plan and Title 6 of the Santa Cruz Municipal Code modifying standards for Medical Marijuana Dispensaries and Personal Medical Marijuana Use. (Environmental Determination: Exempt from CEQA) (City of Santa Cruz, applicant, filed: 10/08/09) MF

RECOMMENDATION: That the Planning Commission recommend to the City Council approval of an amendment to the Municipal Code with a finding that said amendment, in accordance with Title 24 and Title 6 of the Municipal Code, serve and further the public necessity, the general community welfare, and good zoning practice; and that the amendment is in general conformance with the principles, policies and land use designation set forth in the General Plan, Local Coastal Plan and any adopted area or specific plan which may be pertinent.

Assistant Director Khoury introduced Associate Planner Ferry who presented the staff report.

The Commissioners asked questions regarding:

- Sizes of grow houses
- Amounts of electricity needed
- Record keeping
- What population dispensaries serve
- Taxation policies

Chair Quartararo called for a break at 8:20 P.M. The meeting reconvened at 8:30 P.M.

The Public Hearing was opened.

Speakers included:

Lisa Molyneux of Greenway Compassionate Relief
Stuart Kriege, applicant for a new dispensary
Mark Sanchez, business owner
K. E. Sampson of Santa Cruz Patients Collective
Grant Palmer
Mark Millenacker, Attorney

The Commissioners asked questions of the speakers and made comments regarding:

- Client confidentiality
- Non-profit organizations and how they are defined
- Audits recommended by staff
- Needs of the citizens of Santa Cruz
- Limitation of two dispensaries creating a monopoly for the existing two
- What benefits come from grow space
- What percentage of patients are from the City of Santa Cruz
- Whether costs to the patient from dispensaries are lower than illegal drugs on the street
- How limits of 2000 square feet affect production
- Whether the current dispensaries are non-profit
- Whether the City can limit the distribution to only City residents

ACTION: Commissioner Foster moved and Commissioner Tustin seconded that the Planning Commission recommend approval of the ordinance amendment to the City Council with special care to review more carefully what is happening with non-profits and city monitoring to make certain they are truly nonprofit. The vote was tied at 3-3 with Commissioners Foster, Warner and Tustin voting in favor and Commissioners Quartararo, Daly and Schultz voting against. The motion failed for lack of a majority.

ACTION: Commissioner Schultz moved and Commissioner Tustin seconded that the matter be continued to the November 19 meeting with a reading from City Attorney regarding non-profit status and clarification from staff on the potential production numbers associated with grow houses.. The motion carried by a vote of 6-0 with Commissioners Quartararo, Schultz, Daly, Foster, Tustin and Warner voting in favor.

General Business —

3. **2009-2010 Department Work Program** (Continued from the October 1, 2009 Planning Commission meeting.)

RECOMMENDATION: That the Planning Commission receive information.

Director Rebagliati presented the staff report noting a number of significant issues staff is working on including:

- The implementation of a new land use management software system
- City-wide effort to update the City web site
- Volume Three of the City's Historic Building Survey
- The EIR for the City-University Agreement
- The Housing Element
- The General Plan EIR

ACTION: The Planning Commission received information and asked questions.

Informational Items —

No action shall be taken on these items.

Subcommittee/Advisory Body Oral Reports —

No action shall be taken on these items.

- Chairperson's Report (R. Quartararo) — None
- Planning Department Report

Director J. Rebagliati reported that 145 Bayona appeal went to the Council and Council upheld the Planning Commission decision. 101 Manor will likely go to the Council on 12/08. Coming soon will be the Alcohol Ordinance Amendments. She also noted that the City Offices will be closed for 2 weeks over the Christmas and New Year Holidays.

Items Referred to Future Agendas — None

Adjournment — 10:30 P.M.

The next Planning Commission meeting will take place on November 19, 2009 in the City Council Chambers.

Any writing related to an agenda item for the open session of this meeting distributed to the Planning Commission less than 72 hours before this meeting is available for inspection at the City Planning Department, 809 Center Street, Room 107 or on the City's website www.cityofsantacruz.com. These writings will also be available for review at the Planning Commission meeting in the public review binder at the rear of the Council Chambers.

APPEALS - Any person who believes that a final action of this advisory body has been taken in error may appeal that decision to the City Council. Appeals must be in writing, setting forth the nature of the action and the basis upon which the action is considered to be in error, and addressed to the City Council in care of the City Clerk.

Appeals must be received by the City Clerk within ten (10) calendar days following the date of the action from which such appeal is being taken. An appeal must be accompanied by a five hundred dollar (\$500) filing fee, unless the item involves a Coastal Permit that is appealable to the Coastal Commission, in which case there is no fee.