



PLANNING COMMISSION

AGENDA REPORT

VI.7

MEETING DATE: AUGUST 22, 2011

ITEM NUMBER:

SUBJECT: REVOCATION OF MINOR CONDITIONAL USE PERMIT ZA-05-57 FOR LIVE ENTERTAINMENT AND DANCING FOR FORMER CHRONIC CANTINA RESTAURANT 1870 HARBOR BOULEVARD, SUITE 210

DATE: AUGUST 11, 2011

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611 mlee@ci.costa-mesa.ca.us

PROJECT DESCRIPTION

The City of Costa Mesa has initiated the revocation of the following Minor Conditional Use Permit due to discontinuance of the use:

- ZA-05-57 for live entertainment and dancing for the former Chronic Cantina Restaurant.

RECOMMENDATION

Revoke ZA-05-57 by adoption of Planning Commission resolution.

BACKGROUND/ANALYSIS

Project Site/Environs

Triangle Square shopping center is located within the City's Downtown Redevelopment Project Area, and is zoned PDC (Planned Development Commercial). The site is bounded on all sides by major streets – West 19th Street to the north, Newport Boulevard to the east, and Harbor Boulevard to the west. Major tenants include the Triangle Square Cinemas, Yardhouse Restaurant, and Sutra Lounge.

Triangle Square Master Plan

The Master Plan for Triangle Square was originally approved by the Planning Commission on May 8, 1989, as Planning Application PA-89-31 and Redevelopment Action RA-89-05. The Master Plan for the property permitted a variety of retail and entertainment uses, including restaurants, a movie theater, and shops. On November 15, 2010, Planning Commission approved Planning Application PA-10-29, an amendment to the Triangle Square Master Plan, to allow a 59,389 square foot health club (24 Hour Fitness) in the basement and street level area, which is currently under construction.

Chronic Cantina History

- On September 12, 2005, the Planning Commission approved Minor Conditional Use Permit ZA-05-23 for Chronic Cantina, a restaurant located on the same level as Sutra Lounge and Yardhouse, in Suite 210.
- On November 10, 2005, the Zoning Administrator approved Minor Conditional Use Permit ZA-05-57 allowing Chronic Cantina to provide live entertainment and dancing in the form of mariachi musicians and a dance floor for patrons and performers.
- Chronic Cantina closed in March 2010. On June 28, 2011, an application to amend ZA-05-23 for a new restaurant (Saddle Ranch) in the former Chronic Cantina space was filed with the City. Saddle Ranch is not proposing to provide live entertainment or dancing as part of their restaurant.

Revocation

Once approved, use permits "run with the land"; in this case, even though Chronic Cantina no longer operates a restaurant in this space, live entertainment and dancing could be re-established by a future restaurant, even though it is not currently proposed by Saddle Ranch, without having to obtain approval of a new minor conditional use permit. Code Section 13-29(o) allows the Planning Commission to modify or revoke any planning application if it is found to be a public nuisance or not in compliance with the conditions of approval.

Additionally, the City Attorney's office has advised in the past that use permits should also be revoked through City-initiated activities if a business is closed or a use discontinued. In this case, the closure of Chronic Cantina and proposed revocation of the MCUP for live/entertainment and dancing will require any future restaurant to apply for and obtain approval of a new use permit specific to their business.

On August 3, 2011 staff sent a letter to Greenlaw Partners, the owners of the center, advising them of the proposed revocation of the use permit. As of the date of this report, staff has not received any objections from the property owner.

GENERAL PLAN CONFORMITY

The restaurant is/was consistent with surrounding uses as specified in Objective LU-1F.2 of the General Plan Land Use Element.

ALTERNATIVES

The Commission may take no action to revoke the use permit. If the use permit is not revoked, the approval for live entertainment and dancing would continue to remain in place for the restaurant. Although live entertainment and dancing is not proposed for Saddle Ranch, a future restaurant could establish live entertainment and dancing without having to obtain approval of a new minor conditional use permit.

ENVIRONMENTAL DETERMINATION

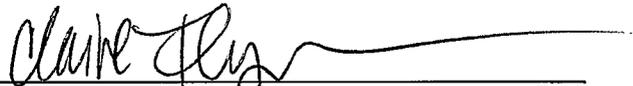
The revocation is exempt from the provisions of the California Environmental Quality Act (CEQA), under Section 15321 for Enforcement Actions by Regulatory Agencies.

CONCLUSION

Live entertainment and dancing is no longer provided at this location. Revocation of the existing land use entitlement will require that, if live entertainment or dancing is provided in the future, a new minor conditional use permit would be required. Therefore, staff recommends that the use permit be revoked.



MEL LEE, AICP
Senior Planner



CLAIRE FLYNN, AICP
Acting Asst. Development Services Director

- Attachments:
1. Draft Planning Commission Resolution
 2. Staff Report and Plot Plan
 3. Location Map

- cc:
- Interim Development Services Director
 - Deputy City Attorney
 - City Engineer
 - Transportation Svs. Manager
 - Fire Protection Analyst
 - Staff (4)
 - File (2)

File: 082211ZA0557Revoke	Date: 080411	Time: 8:45 a.m.
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RESOLUTION NO. PC-11

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA REVOKING MINOR CONDITIONAL
USE PERMIT ZA-05-57**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, on November 10, 2005, the Zoning Administrator approved Minor Conditional Use Permit ZA-05-57 allowing live entertainment and dancing in the form of mariachi musicians and a dance floor for patrons and performers for Chronic Cantina Restaurant, located at 1870 Harbor Boulevard, Suite 210, at Triangle Square;

WHEREAS, according to City records, Chronic Cantina ceased operation of the restaurant in March 2010;

WHEREAS, the City initiated revocation of Minor Conditional Use Permit ZA-05-57;

WHEREAS, the property owner did not submit an objection to the revocation of the use permit;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on August 22, 2011.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **REVOKES** Minor Conditional Use Permit ZA-05-57 with respect to the property described above.

PASSED AND ADOPTED this 22nd day of August, 2011.

Colin McCarthy, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

- A. Revocation was initiated because Chronic Cantina ceased operations in March 2010 and, as a result, the live entertainment and dancing approved under Minor Conditional Use Permit ZA-05-57 no longer operates at the site. A new restaurant (Saddle Ranch) proposing to occupy the former Chronic Cantina space is not proposing to provide live entertainment or dancing as part of their restaurant. Because use permits continues to be in effect regardless if the use is abandoned (i.e., "runs with the land"), a similar use could be established without any updated conditions of approval to minimize impacts to surrounding uses. As a result, live entertainment and dancing cannot establish on the site without having to obtain approval of a new minor conditional use permit.
- B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15321 for Enforcement Actions by Regulatory Agencies.
- C. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

November 10, 2005

Keith M. Scheinberg
Scheinberg & Stock
Attorneys at Law
2901 West Coast Hwy Suite 200
Newport Beach, CA 92663

**RE: MINOR CONDITIONAL USE PERMIT ZA-05-57
LIVE ENTERTAINMENT AND DANCING FOR CHRONIC CANTINA
1870 HARBOR BOULEVARD, SUITE 210, COSTA MESA**

Dear Mr. Scheinberg:

The minor conditional use permit for the above-referenced project has been completed. The application, as described in the attached project description, has been approved, based on the findings and subject to the conditions of approval (attached). The decision will become final at 5 p.m. on November 17, 2005, unless appealed by an affected party including filing of the necessary application and payment of the appropriate fee or by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Mel Lee, at (714) 754-5611, between 1 p.m. and 5 p.m., Monday through Friday.

Sincerely,

R. MICHAEL ROBINSON
Zoning Administrator

Attachments: Project description
 Findings
 Conditions of approval
 Approved Conceptual Plans

cc: Engineering
 Fire Protection Analyst
 Water District
 Building Division

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ZA-05-57
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Romy Miura
Triangle Square Investments, LLC
c/o Charles Dunn Real Estate Services, Inc.
800 West Sixth Street, Suite 600
Los Angeles, CA 90017

William V. Wenger, CPM, RPA
Vice President
Charles Dunn Real Estate Services, Inc.
800 W. 6th St., Sixth Floor
Los Angeles, CA 90017-2709

PROJECT DESCRIPTION

- On September 12, 2005, the Planning Commission, on appeal, approved Minor Conditional Use Permit ZA-05-23 for the proposed cantina.
- The applicant is requesting an amendment to ZA-05-23 to allow live entertainment, non-amplified music and/or dancing.
- Live entertainment will consist of mariachi musicians and acoustical instruments serenading tableside. A dance floor measuring 15 feet by 15 feet is also proposed to allow dancing by patrons and professional dancers.
- The live entertainment, non-amplified music and dancing shall remain ancillary to the primary restaurant use.
- Hours of operation will remain unchanged from ZA-05-23 (11:00 a.m. - 2:00 a.m., Tuesday through Saturday, and 11:00 a.m. - 12 midnight, Sunday).
- All applicable conditions of approval, code requirements, and special district requirements for ZA-05-23 are required to be complied with to ensure that the use is compatible with the other uses in the center.

FINDINGS

- A. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Granting the minor conditional use permit will not allow a use, density or intensity that is not in accordance with the general plan designation for the property. Specifically, live entertainment, non-amplified music and/or dancing will be ancillary to the primary restaurant use.
- B. The proposed use complies with Costa Mesa Municipal Code Section 13-29(e) because:
- The use is compatible and harmonious with uses on surrounding properties.
 - Safety and compatibility of the design of the building, landscaping, and other site features including functional aspects of the site development such as automobile and pedestrian circulation will remain unchanged.
 - The proposed use is consistent with the General Plan.
 - The planning application is for a project-specific case and does not establish a precedent for future development.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.

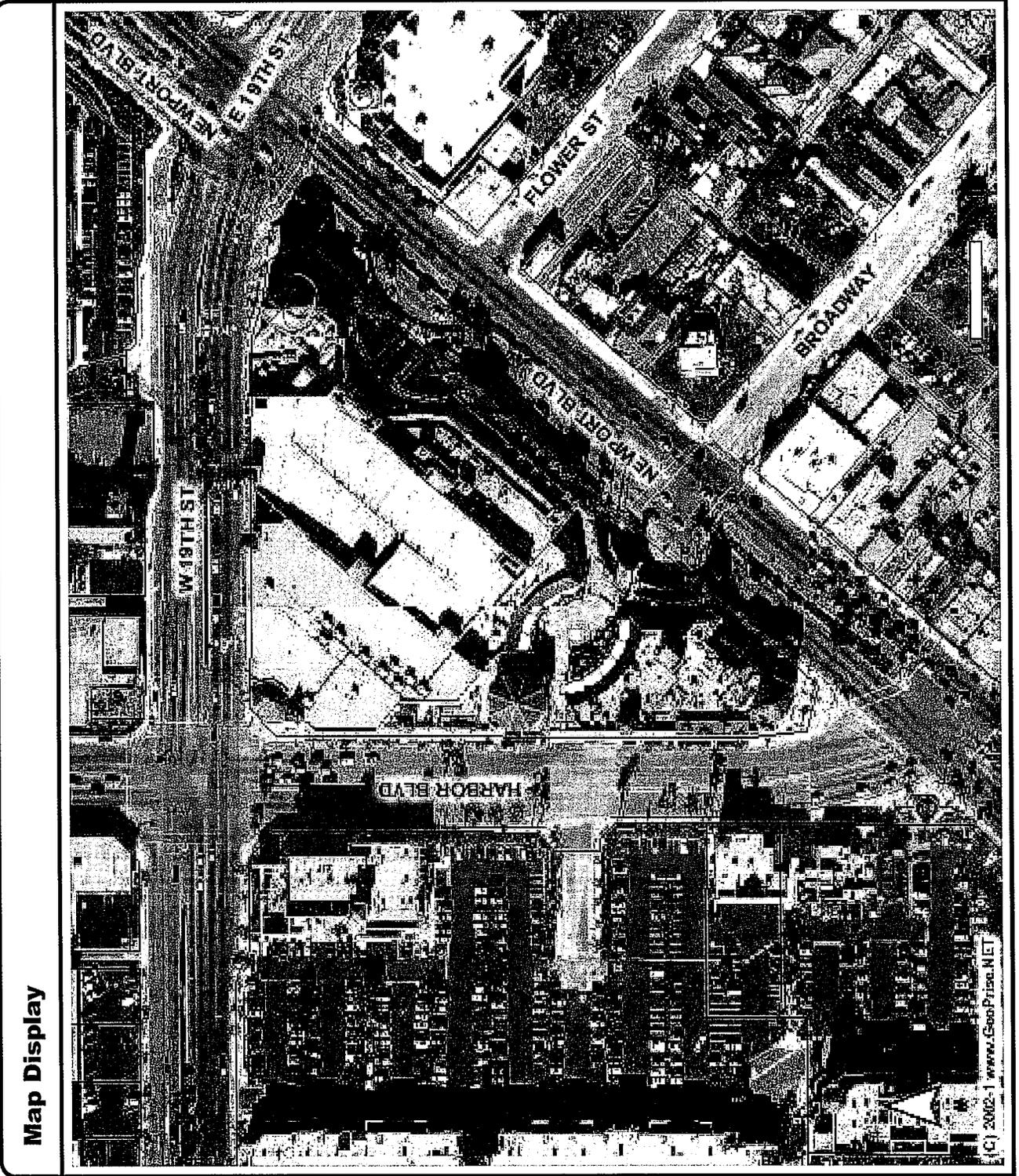
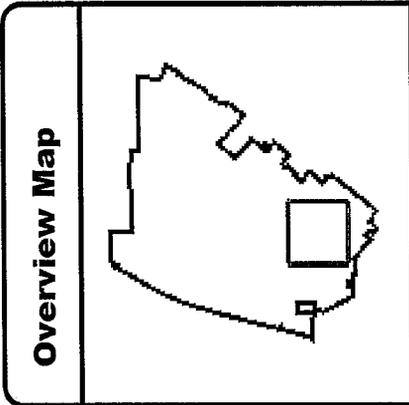
CONDITIONS OF APPROVAL

- Plng. 1. The minor conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The minor conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the Conditions of Approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the Development Services Director or his designee, any of the findings upon which the approval was based are no longer applicable.
2. All applicable conditions of approval, code requirements, and special district requirements for ZA-05-23 shall continue to be complied with to ensure that the use is compatible with the other uses in the center.
3. Live entertainment shall consist of non-amplified music and/or dancing, ancillary to the primary restaurant use. Any change in the operational characteristics including, but not limited to, amplified music or hours of operation, will require approval of an amendment to the minor conditional use permit, subject to Zoning Administrator approval.
4. Live entertainment, non-amplified music and/or dancing may only be permitted subject to City issuance of a "public entertainment permit". Contact Code Enforcement (754-5623) for application information.

CODE REQUIREMENTS

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Plng. 1. Approval of ZA-05-57 is valid for one (1) year and will expire at the end of that period unless live entertainment, non-amplified music and/or dancing is initiated, or the applicant applies for and is granted an extension of time.
2. The use shall comply with the City of Costa Mesa Noise Ordinance.



Legend

	Hydrology Channel
	Water Ways
	Street Names
	Parcel Lines
	City Boundary
	Ortho 2008 Level 2
	Ortho 2006 Level 2
	ROW Polygons