# PLANNING COMMISSION MINUTES OF JUNE 28, 2010

**2010-7371 - La Ronda Night Club** [Applicant] **Maple Leaf Investments II, LLC** [Owner]: Miscellaneous Plan Permit for Planning Commission compliance review of the conditions of approval for a previous approval to allow the expansion of an existing restaurant with live entertainment (La Ronda Night Club) into an existing restaurant space for an additional 534 square feet. The property is located at **927 E. Duane Avenue** (in Fair Oaks Plaza Shopping Center) in a C-1/PD (Neighborhood Business/Planned Development) Zoning District. **(**APN: 205-12-001) SL

*This item was considered as the second public hearing item on the agenda instead of the first.*

**Steve Lynch**, Senior Planner, presented the staff report. He said staff is recommending the Planning Commission deny the Miscellaneous Plan Permit and direct staff to initiate the permit revocation process for City Council review. Mr. Lynch commented about the report which indicates that "no building permits have been applied for" and clarified that on April 12, 2010 the applicant submitted an application, however it was incomplete and not formally taken in. He said staff reviewed the application and provided comment to the applicant. He said on June 22, 2010, after the Planning Commission report was completed, that the owners made a formal submittal and paid the plan check fees. He said the Building and Planning divisions returned comments to the applicant June 25, 2010. Mr. Lynch said the formal application was what staff was hoping to receive in November or December of 2009 with permits being issued by January 12, 2010. He said June 22, 2010 permit did not meet the deadline in the conditions of approval.

**Comm. Rowe** asked, since the business has been operating as a night club without permits, can the Planning Division shut the business down? Mr. Lynch said the Planning Division cannot shut a business down, however staff has been attempting to get this business into compliance for a long time. Comm. Rowe discussed with staff the 26 conditions listed on page 5 and 6 of the report that the applicant was supposed to comply with. Comm. Rowe asked about low frequency noise, and stage location that was discussed at a previous public hearing. **Trudi Ryan**, Planning Officer, said there were conditions that were to be met regarding noise. Comm. Rowe asked about some of the specific conditions and whether the City received a response to the letter sent by the City on March 25, 2010 and shown in Attachment E. Mr. Lynch said there have been a number of phone calls and emails back and forth, but no formal response to the letter was received.

**Chair Chang opened the public hearing.**

**Vincent Rivero**, consultant for the applicant, said the report that the applicant received on June 25, 2010 was surprising to them as they feel they have complied with some of the conditions. He provided a packet of documents to the commissioners, as supplemental information, which addressed conditions they have complied with. Mr. Rivero said that in January 2010 an application was filed with the County to obtain a health approval to allow the applicant to begin building the kitchen. He said since the submittal, the only thing they have heard from the County is that an inspector looked around La Ronda, made comments, yet they have not received his comments. He said they have tried unsuccessfully to get a County response and they cannot pull building permits until they have the County approval. He said they submitted plans on April 12, 2010 and the architect was surprised this was not considered a formal submittal. He said they started working with the community and have taken care of the bass boom. He said the Public Safety calls have diminished and they are beginning to receive support from some of the neighbors. Mr. Rivero said his only regret is they have not worked more closely with staff. He asked the Commission if they could have two or three more months. He said they are so close and all they need is the County Health Department permission. He said in the packet of information provided tonight he addresses point by point the 26 conditions. He said their ABC license is now active and in good standing. He said their trash enclosure details were provided on April 12, 2010. He further discussed other conditions and said they are very close and just need a little more time.

**Comm. McKenna** referred to the supplemental information and asked why this had not been provided to the Planning staff. Mr. Rivero said they thought staff had this information. Comm. McKenna asked staff how other applicants provide proof of compliance with the conditions. Mr. Lynch said for many items applicants discuss with staff what they are doing. Comm. McKenna discussed further with the applicant the conditions, with the applicant saying that they have been doing the conditions, they just did not advise staff. Mr. Rivero said they are ready to put the kitchen in as soon as the County responds. Mr. Lynch confirmed that the applicant is correct that they do need the County approval to obtain their building permits.

**Vice Chair Travis** asked the applicant for the current hours of operation. Mr. Rivero indicated the hours are “nine to midnight”. Vice Chair Travis commented that the glaring differences between the applicant’s page 6, which addresses conditions met, and page 5 of the staff report, are polar opposites with staff saying none of the conditions are met. Vice Chair Travis said the City sent a letter and there was no official response. Mr. Rivero said when the applicant submitted plans on April 12, 2010 and that they felt this was a response to the City’s letter. Vice Chair Travis discussed with the applicant how long it would take to complete the kitchen if they receive a County response with Mr. Rivero saying, about three weeks. Vice Chair Travis confirmed that the applicant has been working with the

County for six months. Vice Chair Travis said personally, he does not feel comfortable allowing an additional three months.

**Comm. Rowe** further spoke with the applicant regarding their dealings with the County, their ABC license, and the packet of information provided to the Commission. Mr. Rivero said they are almost to the point of putting the kitchen in and finalizing the conditions. Comm. Rowe questioned staff about a packet of information containing noise logs that the applicant says was provided to the City in May with staff saying they did not receive a packet. Mr. Lynch clarified that staff is not in disagreement with the applicant about whether they have met many of the conditions; just that staff did not receive information that the conditions had been met. Mr. Rivero said that information was provided on April 12, 2010 and said they have provided information to the City twice, informally and then the second revised plans in the formal submittal.

**Comm. Klein** asked the applicant if the Commission could look at the noise logs, which the applicant provided.

**Mr. Rivero** said he would work to receive the County's response. He said they have put a lot of money into the upgrades and it would be a major loss to lose their investment.

**Comm. Hungerford** discussed with staff if the Commission moved to initiate the permit revocation process for City Council review and the applicant continues to try to put the kitchen in, could the applicant then apply for a new permit. Ms. Ryan said the City Council can still decide whether to revoke the permit even if the kitchen is complete and then a new permit with fees would need to be applied for. Comm. Hungerford asked how long it would be before a revocation could be scheduled to be considered by City Council, with staff saying probably a couple/few months.

**Comm. Rowe** further discussed with staff the possible revocation process, the timeline, and possible options for staff recommendation if the applicant had satisfied the conditions by the time the revocation was to be considered by Council.

**Chair Chang closed the public hearing.**

**Comm. Hungerford moved for Alternative 3, to deny the Miscellaneous Plan Permit and direct staff to initiate the permit revocation process for City Council review. Comm. McKenna seconded the motion.**

**Comm. Hungerford** said this was a hard motion to make, however this business has had a lot of time to make the changes that the Planning Commission asked for. He said now they want more time and he thinks a quick deadline needs to be set. He said this gives the applicant a little time to see if they can make the deadline, however this business has been operating for three years in non-compliance and that is long enough.

**Comm. McKenna** said she agrees with Comm. Hungerford and this is a way to get the application moving and if they really are as far along as they say, then this should be a non-issue when it gets to City Council and a win-win for all.

**Vice Chair Travis** said he originally had hopes for this business as some of the items, e.g. public safety and noise, have been addressed, unfortunately some of the big deadlines have been missed. He said he would be supporting the motion and suggested that the applicant keep in close communication with Mr. Lynch regarding the status of the project.

**Comm. Rowe** said that the owner needs to understand that every business in the City has conditions that must be complied with. She said she agrees with Vice Chair Travis' suggestion to stay in touch with Mr. Lynch and added that the applicant also needs to keep in regular contact with the County.

**Comm. Klein** said he would be supporting the motion, and said he had concerns when he made the motion six months ago whether the Use Permit would go through. He said it seems the applicant is moving in the right direction, however he has the same concerns about how the applicant communicates with staff. He said it will be the City Council's prerogative whether any leniency will be provided. Comm. Klein said it appears there is progress with the neighbor issues as there are no neighbors present this evening, however the deadlines have not been met.

**Chair Chang** said he would be supporting the motion, and said to the applicant that the six-month extension previously allowed was a serious deadline. He advised the applicant that staff is available to help applicant's adhere to the code, and lack of communication with staff is not an acceptable excuse.

**ACTION: Comm. Hungerford made a motion on 2010-7371 to deny the Miscellaneous Plan Permit and direct staff to initiate the permit revocation process for City Council review. Comm. McKenna seconded. Motion carried 7-0.**

**APPEAL OPTIONS: This action is final.**