

CORONADO PLANNING COMMISSION
MEETING MINUTES

Regular Meeting

December 13, 2011

The regular meeting of the Coronado Planning Commission was called to order at 3:02 p.m., Tuesday, December 13, 2011, at the Coronado City Hall Council Chambers, 1825 Strand Way, Coronado, by Chairperson St. Denis.

MEMBERS PRESENT: DeNardi, Jensen, Santos, St. Denis

MEMBERS ABSENT: Grimes

STAFF PRESENT: Rachel A. Hurst, Director
Ann McCaull, Senior Planner
Peter Fait, Associate Planner
Martha L. Alvarez, Recording Secretary/Minutes Preparer

APPROVAL OF MINUTES

The minutes of the regular meeting of September 13, 2011, were approved as submitted.

The minutes of the regular meeting of October 25, 2011, were approved as submitted.

DIRECTOR'S REPORT

Director Hurst reported that during the calendar year 2011, the Planning Commission held 11 meetings, reviewed 17 applications, and Ms. Alvarez processed 161 pages of minutes. There were no appeals of any Planning Commission items in 2011. Ms. Hurst thanked the Commission and staff for their part in these accomplishments.

COMMITTEE REPORTS

Chairperson St. Denis reported that she was appointed to the Cultural Arts Commission and will step down as the Planning Commission's representative on the Historic Resource Commission.

Historic Resource Commission

Chairperson St. Denis then reported that at the meeting of December 7, the Commission approved a Historic Alteration Permit at 927 D Avenue, and recommended City Council approval of a Historic Alteration Permit at 824 Adella Avenue. The Commission also recommended approval of a Mills Act Agreement at 200 H Avenue.

ORAL COMMUNICATIONS AND OTHER MATTERS

NON AGENDA ITEMS

There were no members of the public wishing to speak at this time.

LISTED AGENDA ITEMS

There were no members of the public wishing to speak at this time.

PUBLIC HEARING

PC 2011-04 NICKY ROTTENS INVESTMENT GROUP – Request for approval of a Joint Use Parking Plan for Nicky Rottens Restaurant addressed as 100-104 Orange Avenue in conjunction with the Coronado Hardware Store at 140 Orange Avenue within the Commercial Zone of the Orange Avenue Corridor Specific Plan.

Mr. Fait introduced the agenda item as outlined in the staff report.

Commissioner DeNardi said there are four existing parking spaces at 140 Orange Avenue even though the application indicates there are five parking spaces. He said this does not imply there cannot be five parking spaces if the current lessee is prepared to make the necessary changes to accommodate the five spaces.

Phil Hammett said that upon completion of the resurfaced blacktop as part of the exterior remodel six weeks ago, five parking spaces were placed. He confirmed there have always been five parking spaces since 1987.

Chairperson St. Denis said she had noticed the blacktop was newly striped and there were five parking spaces.

Commissioner DeNardi said the southernmost parking space has only 62 inches of access on the property line; therefore, he does not consider it a valid parking space. He said this issue can be corrected between the applicant and the lessee; however, he reiterated there are only four legal parking spaces.

Chairperson St. Denis said that the CMC Section 86.58.210 Joint Use, states as follows: “up to 50 percent of the parking facilities of a use considered to be primarily a nighttime use may be provided by the parking facilities of a use considered to be primarily a daytime use, provided such reciprocal parking area shall be subject to conditions set forth...” She asked how this section is applied.

Mr. Fait said the restaurant use is about 1800 sq. ft. total, which requires 18 parking spaces, even though 1300 of the 1800 sq. ft. is non conforming. Of the 18 parking spaces, 50 percent may be obtained off site, which would mean the applicant could provide a maximum of nine parking spaces. The applicant is proposing five joint use parking spaces.

Chairperson St. Denis asked how the 500 sq. ft. floor area requirement is determined for the portion containing the dining tables. She noted the remaining 250 sq. ft. of the area does not contain tables.

Mr. Fait said this requirement may be difficult to monitor in the future. He said all items that are clearly restaurant use are included in the requirement, i.e. hostess use, seating and waiting area. He suggested a condition could be added which specifically states that no dining activity can occur within the retail floor area as shown on the plans.

Commissioner DeNardi stated for the record that he met with one of the applicants, Tim Aaron last week, at 100 Orange Avenue. Their discussion involved the applicant sharing their vision for the application.

The applicant's legal counsel, Ron Storma, provided an overview of the request and answered questions of the Commission.

The applicant, Nick Tomasello, thanked the Commission for their consideration of the request. He gave a brief overview of the request and answered questions of the Commission.

PUBLIC COMMENT

Miles Harvey said he has lived for over 20 years at The Landing, which is located across the street from the restaurant. He said he and his wife were initially opposed to the location of the restaurant; however, he is now in support of the business as its workmanship is superb and, more importantly, the applicants provided public outreach to the neighbors at The Landing and are very good neighbors. He encouraged the Planning Commission to support the request.

Rita Sarich, Coronado MainStreet, said that its Board supports the parking proposal. She said the Board appreciates the City's creative interpretation of the Municipal Code. She said the restaurant has added a vibrant business to the 100 block of Orange, and wish the applicants continued success.

Ruth Ann Fisher, Chairman, Chamber of Commerce, said the Chamber works with local government to help business interests in Coronado to gain prosperous futures. She said Phil Hammett of Coronado Hardware reached out to their neighboring business, Nicky Rottens, to assist in meeting its parking requirements to expand its eating and drinking square footage. She said the Chamber of Commerce fully supports the request to allow the joint parking agreement between Nicky Rottens and Coronado Hardware, and encouraged the Planning Commission to approve the request as submitted.

Hank Monroe said he enjoys dining at Nicky Rottens, has never had an issue finding a parking space in the area, and asked the Planning Commission to support the request.

Jihan Mirad, legal counsel for Wucherer Investment Trust, submitted written communication addressed to Associate Planner Peter Fait and spoke in relation to the property located at 1020 First Street. She urged the Planning Commission to deny Nicky Rotten's application for a Joint

Use Parking Permit for the following reasons:

1. Pursuant to OACSP, Nicky Rottens is required to provide a total of 42 parking spaces.
2. Nicky Rottens is a nightclub/bar within the meaning of California liquor license laws and are not allowed to enter and remain on premises.
3. Nicky Rottens is violating OACSP, Chapter IV, Section C, because it does not have the required Special Use Permit.
4. Nicky Rottens proposed Joint Use Parking violates CMC Section 86.58.210 because it is not within 200 feet of the proposed off-site parking.
5. The proposed Joint Use is detrimental to the health, safety and general welfare of persons residing in the area.
6. Nicky Rottens has failed to comply with the previous conditions imposed by the City of Coronado.
7. Nicky Rottens has failed to restrict the interior mezzanine to its originally permitted use as office and storage space.

Tom Walker said Nicky Rottens has not adhered to conditions of permits previously issued to the applicant. He stated he does not support the request.

Marilyn Field said she lives in Coronado Point and expressed concerns about parking issues, i.e. persons parking in front of their garages while attempting to patronize neighborhood businesses. She also stated that the manner in which the City is interpreting the law is incorrect, such as the zoning code requirements related to the number of parking spaces and the distance between the parking area and the business location. In addition, she called to the Commission's attention the fact that 71 residents have filed protests with the Alcoholic Beverage Commission stating their concerns about this operation.

Cecilia Leith said she lives in Coronado Point and has been a resident of Coronado since 1957. She expressed concern regarding parking and noise issues and stressed that it would be very unpleasant to walk down the alley to arrive at the business location from the parking area. She also noted that there is no valet parking or guard at the business site, as previously mentioned by the applicant.

Cindy Rightmeyer said she owns a business at 930 Orange Avenue, and stated that she supports the request.

Elaine Fenwick said she lives in Coronado Point. She said she has been a resident since 1995 and expressed concern regarding potential noise issues.

Karen Finch, Coronado Chamber of Commerce, thanked City staff for assisting with questions, meetings, and really trying to work this unique property as parking is a real challenge. She said the area is very much improved with the addition of Nicky Rottens and asked that the residents embrace the business community's numerous contributions which enhance the lives of community members.

Steve Rauber said he does not believe this situation is a win-win situation. He said he lives next door to Nicky Rottens and feels that the assumption that the business is a good neighbor is

definitely debatable. He expressed concern that the applicants never applied for a Special Use Permit or that the project was not reviewed by the Historic Resource Commission (the applicant withdrew their application for review). He also noted that the request does not meet Municipal Code requirements, i.e. number of parking spaces, distance from parking area to the business location.

Phil Hammett said it was fair for a restaurant to re-open their grandfathered space and not have any requirements for parking, and it is also fair for another restaurant to open and have that same privilege. He said that much of the mixed use on Orange Avenue remains empty. He reminded the Commission that the former laundry operation remained opened 24/7 and was a place where transients would sleep. He said the 100 block of Orange Avenue has always been somewhat of a nightclub area. He said it was a goal to have this historic building renovated and operational, functional and successful. He asked if it was fair to ask this business to provide a parking area and not ask other surrounding businesses to provide the same. He asked the Commission to look at the fairness of the request.

Buzz Fink said he has been a resident of Coronado for 45 years. He said he has seen many changes in the community. He said he has patronized Nicky Rottens on three different locations and has parked in various locations. He said he felt persons are commenting today on issues not before the Commission's review. He urged the Commission to consider the issue in question which is whether the applicant meets the requirements for the request. He said the applicants have done a phenomenal job and have added quality, craftsmanship, design and service to their business. He urged the Commission to approve the request.

Sam Spencer, resident of The Landing, said he believes that Nicky Rottens has been the most impressive enhancement the community has seen to date. He said it replaced a former low brow saloon and a laundromat. He said Nicky Rottens has provided a new exciting entertainment center for the enjoyment of locals and tourists.

Mr. Storma clarified that comments made by the public today regarding alleged violations by Nicky Rottens is not a point of discussion at today's meetings. He said Nicky Rottens has been very sensitive and responsive to public comments and complaints.

COMMISSION DISCUSSION

Chairperson St. Denis commented that Nicky Rottens is beautiful and the work is first rate. She said the operation is such an improvement over what was formerly there. However, she noted that the Municipal Code deals only with the law and does not take into account a structure's beauty or improvements made by the applicant.

Commissioner DeNardi stated that the applicant has put a lot of time and effort into the project and as an individual, he supports the effort to convert the former laundromat into a restaurant. However, he said the challenge was to take the application and ensure that it meets the Municipal Code. Unfortunately, he said the application does not meet the Code requirements. He said the applicant and the City have determined the required number of parking spaces to be five. He feels the number should be eight. He referred to the Code section that addresses Joint Use,

which states, “Up to 50 percent of the parking facilities required by this Chapter.” He said that 50 percent of the five parking spaces that the City has determined are required can be joint use. This would mean two parking spaces which does not meet the requirement of five parking spaces. He said the requirement for joint use also requires that the establishment be a nighttime operation. Nicky Rottens is not a nighttime operation—it is a full regular daytime operation. Mr. DeNardi noted there are 77 restaurants in our city and only one is not open during the day. He said the Joint Use formula has conditions that must be met in order to be a joint use parking user. He said one of those conditions is that the applicant must demonstrate there is no conflict between the requirer and the requiree, that is, between 100 Orange Avenue and 140 Orange Avenue. He stated there is a conflict in that 73 percent of 140 operating hours are in joint use with 100 Orange Avenue, and 47 percent of 100 Orange Avenue are in conflict with 140 Orange Avenue. Mr. DeNardi stated that the other condition required under the Joint Use portion of the Code is the distance between the parking area and the operation. He said the applicant has met all of the requirements of Section 190 for parking. However, when the applicant asks to use joint use parking areas, they have the further burden of meeting the Joint Use parking requirements. The Joint Use conditions state that the parking facility must be within 200 feet of the facility of 100 Orange Avenue measured by walking distance, which it does not. Mr DeNardi summarized that as he attempts to apply the application to the Joint Use requirements, he is unable to make it work. In addition, the number of required parking spaces is questionable. The City states that five parking spaces are required; however, historically, the answer is that it should be eight parking spaces. He noted that a recent review of the Panera Bread property and the criteria used to determine the required number of parking spaces reads as follows, according to the application, “Restaurants are required to provide one parking space per 100 square feet of public and dining floor area.” Mr. DeNardi said that what is not required is back of house space, i.e. kitchen, cooler, storage, etc. He said the applicant stated they have over 700 sq. feet that they want to convert into a restaurant area. Historically, if the same formula is applied, the requirement is for eight parking spaces. He said he wants the applicants to have the space; however, they should consider other options such as valet parking.

Commissioner Jensen said he takes a different perspective on this matter. He said he understands there is an obligation to comply with the Code and staff advises that the request does meet the criteria. He also understands that staff has been flexible but for good reason. He said it is obvious that this operation is a marked improvement on an area of town that the City has long neglected. Mr. Jensen said this is a very desirable area and Nicky Rottens dramatically enhances the city and its attractiveness. He stated he would rely on staff’s interpretation of the Code. He strongly urged the Commission to approve the request in order to contribute to the success of a business that is contributing to the attractiveness and desirability of Coronado as a whole. He summarized that Nicky Rottens should be applauded for their accomplishments.

Vice Chair Santos said she echoes all comments made by her fellow Commissioners regarding Nicky Rottens being a wonderful addition to our community, and comments made by the residents validating that their lives have been enhanced. Ms. Santos said that Nicky Rottens is asking for 500 sq. feet of additional space, an area that was previously being used as retail. Ms. Santos said that she must ensure that the request abides by the existing law. She asked for clarification from staff on the requirement for walking distance between the business operation and the parking area and for the required number of parking spaces.

Chairperson St. Denis said she shares the same reservations and respectfully disagrees with staff's recommendation. She understands that everybody loves this restaurant, wants it to succeed, and wants to find a way to make it a family restaurant. However, she said the request does not meet the Code requirements which clearly state, "Location. Off street parking facilities shall be located as herein after specified where a distance is specified, such distance shall be the walking distance measured from the nearest point of the building that such facility is required to serve." Staff provided a drawing showing the walking distance is 295 feet. She was also concerned with the formula used by staff to determine the required number of parking spaces. She mentioned there are other options, such as valet parking, that could meet the needs of the business. Ms. St. Denis said she would not support the request.

Commissioner Jensen asked if the item could be continued in order that staff could provide clarification of some of the issues that are concerning Commissioners, e.g. walking distance, sq. footage, etc.

Chairperson St. Denis said she would support a continuance if agreed to by the applicants. She said she would not agree to approve the request because she did not want to set precedence.

Commissioner DeNardi asked if staff would answer questions made by Commissioner Santos.

Vice Chair Santos repeated her previous questions: Under Section 190, the issue regarding the daytime/nighttime use vs. the number of required parking spaces.

Director Hurst addressed the questions related to whether or not the proposal complies or can be made to comply through conditions with the Code. She said there is some discretion in the Planning Commission's recommendation and discretion for the decision maker. She stated that if the applicant were proposing to include the entire space of the 100 Orange Avenue portion of the building in the eating and drinking area, it is agreed by staff that it requires seven or eight parking spaces based on the sq. footage of area not authorized for eating and drinking at this time. If the applicant had the opportunity to find seven or eight spaces to do joint use parking spaces, they would likely welcome it. The applicant was able to identify five spaces so in response to their ability to find five spaces with a willing property owner, City staff has responded that it will not allow for an additional 700 feet of eating and drinking. This means the expansion would have to be limited to 500 sq. feet. This was one of the ways that the application could comply with the code requirement of one space per 100 sq. feet of additional eating/drinking area. This means that some of the area would need to be retained as retail. In terms of Code requirement for joint use, there is a disagreement on the interpretation on what the 50 percent means. Ms. Hurst said there are different ways to interpret the Code and staff used the interpretation that they felt made the most sense. Clearly, the General Plan of the City and the Specific Plan say that making more efficient use of existing parking is good public policy, so the Joint Use is intended to encourage that. Staff saw no real purpose being served in interpreting that section of the Code to mean that an applicant could only have two joint use parking spaces as opposed to five parking spaces that are theoretically available after 6 p.m. With relation to the distance requirement, there are several locational requirements related to the Joint Use parking that requires the parking area to be within 200 feet, not across a public street, and in the same

block as the business. She said these requirements are being met. Ms. Hurst said that in the preamble of the Section Code, it also states how the distance should be measured—walking distance. Walking distance from the parking area to the corner of the building is more than 200 feet; however, there have not been very many cases of Joint Use to use as precedence. And there have been cases, although not Joint Use, where parking for a commercial use has been provided off-site and the walking distance has been farther than 200 feet. She said that it can be agreed that the Code states the distance; however, it cannot be confirmed that this requirement has been consistently applied in the past, so there is clearly a judgment call to be made in terms of whether or not the parking is too far away to be utilized for this business. She said that the reason the walking distance provisions are there is because if the parking area is too far away, it will not be utilized. She said that other than street parking, there is no other parking.

Commissioner Jensen asked for further clarification on the distance requirement.

Ms. Hurst read from the Code: “Where distance is specified, such distance shall be the walking distance from the nearest point of the building that such facility is required to serve.”

Commissioner Jensen asked if walking through the alley from the parking area to the business establishment measures 200 feet.

Commissioner DeNardi reiterated that the applicant meets all of the requirements of Section 190 related to distance. However, there is an additional burden of meeting the parking requirements spelled out in the Joint Use section, which states, “No greater than 200 feet from the parking facility to the building.” He said this application falls far short of that measured by walking distance.

Mr. Fait said that the walking distance via the alley from the parking facility to the closest part of the building is 295 feet.

Chairperson St. Denis said it is clear that the Commission and staff are trying to find a way to make this work. She suggested that the Municipal Code Ordinance should be reviewed and possibly changed if it is not working for the community.

Commissioner Jensen asked for clarification on the extent of the Commission’s discretion related to adherence to the Code. He asked if the Commission had the discretion to condition approval upon the City Council providing some exemption from distance requirement or the issues related to joint use.

Chairperson St. Denis said she had previously suggested to the applicant, Tim Aaron, to consider applying for a variance. She asked staff if this was an option.

Director Hurst reiterated said she was not clear how good of an option this would be. She stated that the Commission is making a recommendation to the City Council, therefore, the Commission has the option of suggesting conditions or changes that would make it favorable to recommend approval. The Commission also has the option to recommend to the City Council that some provisions in the Ordinance should be reviewed. Ms. Hurst said that comments by the

Commission regarding hours of operation and conflicts are addressed with staff's condition restricting the use of the expansion area to only the hours that the parking spaces are available. This condition is intended to conform to the Code requirement so that hours do not conflict. Although the applicant would prefer to not have this condition, they were understanding and were prepared to implement this restriction.

Commissioner Jensen said there should be a way to sequester the space for the dining and non-dining area which would not be financially burdensome to the applicant. He asked if a recommendation could be forwarded to City Council for approval of this concept, thereby permitting the applicant to have joint use, allowing expansion of their serving area, and resolving the issues raised by Commissioners DeNardi and Santos.

Mr. Aaron said the area is currently barricaded and suggested he could keep the existing wall so the 500 sq. feet would be marked off.

Commissioner DeNardi said he understands the proposal to mitigate the conflict issue; however, he said it does not address the Code requirement. He said the Code states there should be no substantial conflict, and there clearly is.

Commissioner Santos said it is possible to include conditions which address the 500 sq. foot space and issues related to operation of hours; however, she said she is not clear on the walking distance requirement.

Director Hurst reiterated that staff looked for the intent behind the Code provisions. Clearly the intent is that the parking area not be too far away from the business to be utilized. In this particular case, she said patrons walk much farther than the suggested parking area in order to get to the business location. From that point, the Commission can judge whether using this parking area is a concern. The other question the Commission may consider is whether there are conditions that could be applied to the application that would address this issue. For example, some persons have suggested the applicant provide valet parking.

Chairperson St. Denis said the valet parking could solve the bigger issue of using all of the 700 sq. feet rather than just five parking spaces.

Mr. Aaron said the parking area is what is available to them. They considered every option and realized that patrons would not have to cross the street as it is on the same block, although the walking distance is more than the stated Code requirement. He said although a valet plan is arguable, it could be done in order to accommodate the Code requirement as they are over about 100 feet.

Mr. Tomasello commented that since day one, they have worked with the City and the residents, have obtained a building permit and a certificate to occupy the premises, and have done everything the City has requested. He said staff has submitted their report with their best interpretation and he does not feel it is appropriate to supersede this report. He feels that the City has done a thorough job and this should be sufficient for the Commission to base their decision.

Chairperson St. Denis agreed that the City did a great job in putting together a report with recommendations for the Commission's review. It is, however, the Commission's job to determine if the project meets the Municipal Code requirements.

COMMISSION ACTION

COMMISSIONER JENSEN MADE A MOTION TO RECOMMEND TO CITY COUNCIL APPROVAL OF THE REQUEST FOR A JOINT USE PARKING PLAN FOR NICKY ROTTENS RESTAURANT ADDRESSED AS 100-104 ORANGE AVENUE IN CONJUNCTION WITH THE CORONADO HARDWARE STORE AT 140 ORANGE AVENUE WITHIN THE COMMERCIAL ZONE OF THE ORANGE AVENUE CORRIDOR SPECIFIC PLAN, SUBJECT TO FINDINGS AND CONDITIONS. THE FOLLOWING CONDITIONS WERE ADDED:

1. THAT NICKY ROTTENS MEETS THE JOINT USE REQUIREMENT RELATED TO THE NUMBER OF SPACES, TIME OF USE, AND DISTANCE.
2. THAT NICKY ROTTENS PROVIDES A PHYSICAL BARRIER DEFINING THE 500 SQ. FEET OF ADDITIONAL DINING SPACE.

The motion died for lack of a second.

COMMISSIONER DENARDI MADE A MOTION TO RECOMMEND TO CITY COUNCIL DENIAL OF THE REQUEST FOR A JOINT USE PARKING PLAN FOR NICKY ROTTENS RESTAURANT ADDRESSED AS 100-104 ORANGE AVENUE IN CONJUNCTION WITH THE CORONADO HARDWARE STORE AT 140 ORANGE AVENUE WITHIN THE COMMERCIAL ZONE OF THE ORANGE AVENUE CORRIDOR SPECIFIC PLAN.

COMMISSIONER SANTOS SECONDED THE MOTION.

AYES:	DeNardi, Santos, St. Denis.
NAYS:	Jensen.
ABSENT:	Grimes.
ABSTAIN:	None.

The motion passed 3-1.

ADJOURNMENT

There being no further business, the meeting adjourned at 5:15 p.m.

Rachel A. Hurst, Director of Community Development,
Redevelopment & Housing Services