



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: January 9, 2007

COUNCIL DISTRICT: 6
SNI: None

SUPPLEMENTAL MEMO

SUBJECT: CP05-038. APPEAL OF THE PLANNING COMMISSION'S DECISION TO CONDITIONALLY APPROVE A CONDITIONAL USE PERMIT TO ALLOW A PRIVATE CLUB, OUTDOOR USES WITHIN 150 FEET OF RESIDENTIALLY ZONED PROPERTY, AND ASSOCIATED SITE IMPROVEMENTS LOCATED ON THE NORTH SIDE OF MINNESOTA AVENUE, APPROXIMATELY 350 FEET WESTERLY OF LINCOLN AVENUE (1139 AND 1143 MINNESOTA AVENUE) ON A 0.54 GROSS ACRE SITE IN THE CO COMMERCIAL OFFICE ZONING DISTRICT.

REASON FOR SUPPLEMENTAL MEMO

On January 5, 2007, the City received a 16-page letter from the Alano Club. The purpose of this supplemental memo is to respond to the issues raised in the letter.

RECOMMENDATION

The Director of Planning, Building and Code Enforcement recommends the City Council uphold the Planning Commission's decision to conditionally approve a Conditional Use Permit (File No. CP05-038) to allow a private club, outdoor uses within 150 feet of residentially zoned property, and associated site improvements, as recommended by Planning staff.

OUTCOME

If the Council adopts a resolution approving the subject Conditional Use Permit with conditions as recommended by Planning staff, the Alano Club would be permitted to operate during certain hours seven days per week following completion of site improvements (perimeter wall, landscaping, and modification to an outdoor deck) and minor lot reconfiguration, subject to the operational conditions and establishment of a Community Advisory Council as specified in the Permit.

ANALYSIS

The following issues were raised in the letter from the Alano Club's attorney, Sean Cottle.

Outdoor Deck

In the letter dated January 5, 2007, the applicant offered to partially enclose the deck. The applicant has not previously agreed to such an enclosure when suggested by staff. Staff believes that the partial enclosure, if properly designed, has the potential to reduce noise and impacts from patron smoking on adjacent properties, and to help control use of the deck by creating a defined space for outdoor activity, but staff believes it is critical that the deck also be reduced in size. As it presently exists, the deck is configured and sized such that 30 to 50 standing people could easily be accommodated. In light of the applicant's recent willingness to construct a partial enclosure, staff recommends that the existing deck be reduced in size (from 815 to 300 square feet) and partially enclosed, that the operational conditions restrict use of the deck to between 7:30 a.m. and 8:00 p.m. daily, and that the number of people utilizing the deck be limited to 15 as agreed to by the applicant.

Hours of Operation

The applicant requests an additional half hour of operation beyond the hours recommended by staff (6:00 a.m. to 6:30 a.m. daily) with a suggested condition that activity in the parking lot be restricted before 6:00 a.m. with no entry to the building from the rear until 7:30 a.m. Staff continues to recommend that the daily hours of operation be limited to 6:30 a.m. to 10:00 p.m.

Timing of Site Improvements

The applicant requests that the private club be allowed to operate prior to completion of certain site improvements, and requests that the Conditional Use Permit include a condition allowing the applicant 90 days to complete the Phase 1 improvements including full implementation of the operation plan specified in the approved permit, completion of the perimeter wall and perimeter landscaping depicted on the approved plans, completion of all precedent conditions, and obtainment of all required Building Permits to address known building code issues. Staff continues to recommend that all of the Phase 1 improvements, and the required modifications to the deck, be completed prior to commencement of the private club use.

Use of Parking Lot

The applicant is requesting modification to Concurrent Condition #12i as follows (additional language bolded):

Use of Parking Lot. The parking lot shall be made available to all members of the public (meeting attendees and club members) who are visiting the private club facility **and shall be used** on a first come, first serve basis. **The applicant is responsible for publicizing, to all those visiting the site, the availability of the on-site parking to all.**

Staff believes that it could be helpful for the applicant to publicize the availability of the parking, as proposed by the applicant, but staff is concerned that it would be difficult to enforce the condition that the parking lot be used. Staff believes that a revised condition, as follows, states that the use of the parking lot cannot be restricted to selected users (as in the past operation of the private club) which will ensure that parking is available for use by site visitors and also clarifies that the burden of publicizing the parking lot availability is with the applicant:

Use of Parking Lot. The parking lot shall be made available to all members of the public (meeting attendees and club members) who are visiting the private club facility on a first come, first serve basis. The applicant is responsible for notifying all those visiting the site of the availability of the on-site parking to all.

Relevant Facts and Events

On January 5, 2007, the applicant provided a seven-page chronology of events, permits, and activities associated with the subject property, neighboring properties, and personal communications between the property owners, including extensive descriptions of the significant code enforcement history of the site. Given that this information was only recently submitted to the City, staff has not verified whether the document is accurate or complete. Staff recommends that the City Council adopt the facts and findings in the draft Resolution as recommended by staff. If the applicant disputes any of the facts contained in the draft Resolution, staff would need additional time to review the disputed items and provide a response to the City Council.

Conclusion

Based on the conditions in the attached resolution, the Director recommends that the City Council uphold the Planning Commission's decision to conditionally approve this project with the conditions recommended by staff.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

January 9, 2007

Subject: CP05-038 Appeal

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Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. Notices for the public hearings for the project and for this appeal were mailed to the owners and tenants of all properties located within 1000 feet of the project site. Additionally, prior to the public hearing, a community meeting was held on October 30, 2006 and an electronic version of the staff report has been made available online, accessible from the City Council agenda, and on the City's website. Staff has been available to discuss the proposal with members of the public.

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney's office.

FISCAL/POLICY ALIGNMENT

As conditioned, the proposed project is aligned with applicable General Plan and development policies.

COST SUMMARY/IMPLICATIONS

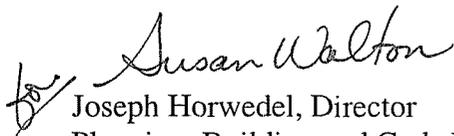
Not applicable.

BUDGET REFERENCE

Not applicable.

ENVIRONMENTAL REVIEW

Exempt.


Joseph Horwedel, Director
Planning, Building and Code Enforcement

For questions, please contact Susan Walton at (408) 535-7800.

Attachment:

Letter from Applicant dated January 5, 2007

cc: Applicant/Appellants



HOGE, FENTON
JONES & APPEL, INC.

Attorneys at Law | San Jose | Pleasanton | East Palo Alto | Hollister

Sean A. Cottle
408.947.2404
sac@hogefenton.com

January 5, 2007

VIA HAND DELIVERY

Mayor Chuck Reed
Councilmember Pete Constant
Councilmember Forrest Williams
Councilmember Sam Liccardo
Councilmember Nora Campos
Councilmember Madison Nguyen
Councilmember David Cortese
Councilmember Judy Chirco
Councilmember Nancy Pyle
200 E. Santa Clara Street
San Jose, CA 95113

Re: -January 9, 2007 City Council Agenda Item No. 11.3
-Administrative Hearing on consideration of an appeal of the Planning
Commission's decision to conditionally approve a Conditional Use Permit
-City of San Jose Planning Department File No. CP05-038
-Our File No.: 75024

Dear Honorable Mayor and Councilmembers:

Please find attached the Alano Club West of San Jose's **LIST OF CONCERNS, COMMENTS AND SUGGESTIONS REGARDING THE APPEAL OF THE PLANNING COMMISSION'S DECISION AND THE DECEMBER 15, 2006 STAFF REPORT** and **RELEVANT FACTS AND EVENTS RELATING TO THE ALANO CLUB WEST OF SAN JOSE, THE CONDITIONAL USE PERMIT APPLICATION AND CODE ENFORCEMENT**. These documents are being presented for your review in anticipation of the January 9, 2007 Administrative Hearing.

The Alano Club West of San Jose (the "Club") is a non-profit organization that has been providing services and a place for recovering alcoholics and drug addicts to meet at 1143 Minnesota Avenue in San Jose since 1976. Approximately 150,000 people walk through the Club's doors on an annual basis to attend a meeting. As you can appreciate, many of these individuals are the same ones who attend one of the five to seven meetings that are offered on a daily basis. More details of these meetings are spelled out in the Club's Operational Plan that Staff included in its report.

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Mayor Chuck Reed
Councilmember Pete Constant
Councilmember Forrest Williams
Councilmember Sam Liccardo
Councilmember Nora Campos
Councilmember Madison Nguyen
Councilmember David Cortese
Councilmember Judy Chirco
Councilmember Nancy Pyle
January 5, 2007
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Following complaints about noise and dust from an adjacent neighbor and trying to address these issues with the neighbor and City Staff, the Club filed a Conditional Use Permit Application that the Planning Commission approved with conditions on November 15, 2006. The same complaining neighbor and another neighbor (an owner of commercial property on Lincoln Avenue) appealed the Planning Commission's decision. Consequently, Planning Staff issued its report in advance of the January 9, 2007 Administrative Hearing on the appeals. The attached documents are the Club's response to the report.

On behalf of the Club, I respectfully request that you review the attached documents in advance of the Administrative Hearing. Feel free to contact me at anytime between now and the hearing if you or one of your staff members want to discuss the attached documents. I will be checking my office voicemail and email over the weekend and can arrange a mutually agreeable time to discuss this matter.

Thank you in advance for your attention to this letter, the attached documents and this matter in general.

Very truly yours,

HOGE, FENTON, JONES & APPEL, INC.



Sean A. Cottle

SAC: sac

Cc: Richard Doyle, City Attorney (Via Hand Delivery)
Joseph Horwedel, Director of Planning (Via Hand Delivery)
Erin Morris, Senior Planner (Via Hand Delivery)
Mike Kelly (Via Regular Mail)
Mike Formico (Via Regular Mail)

File Number CP05-038
Hearing Date: January 9, 2007
Agenda Item No. 11.3

**ALANO CLUB WEST OF SAN JOSE'S
LIST OF CONCERNS, COMMENTS AND SUGGESTIONS
REGARDING
THE APPEAL OF THE PLANNING COMMISSION'S DECISION
AND THE DECEMBER 15, 2006 STAFF REPORT**

Alano Club West of San Jose (the "Club") provides the following list of concerns, comments and suggestions in response to the December 15, 2006 Staff Report prepared in advance of the Administrative Hearing of the appeal of the Planning Commission's November 15, 2006 decision to conditionally approve the Club's Conditional Use Permit ("CUP"). This document addresses items in the order they appear in the Staff Report Analysis. It also provides suggested changes to the proposed Resolution.

Permit Appeal from Commercial Property Owner:

- The Club agrees with Staff's response to Mr. Cayton's appeal.
- The Club suggests that the proposed **Concurrent Condition 12i** be modified to read:
 - i. *Use of Parking Lot. The parking lot shall be available to all members of the public (meeting attendees and club members) who are visiting the private club facility and shall be used on a first-come, first serve basis. **The applicant is responsible for publicizing, to all those visiting the site, the availability of the on-site parking to all.*** (Additional language bolded)
- The Club is not willing to accept Mr. Cayton's suggestion of installing a "in-and-out recording" system similar to the one Mr. Cayton included in his December 19, 2006 letter due to the cost of the system, which is approximately \$14,265. Moreover, as Staff has concluded in the past, a counting mechanism will not truly have the desired effect. This is why Staff is comfortable with the language in the proposed Resolution.

Permit Appeal from Single-Family Residential Property Owner:

- The Club disagrees with Staff's response to Mr. Piekarski's appeal
- **Outdoor Deck:**
 - Staff's response (see Page 7 of the December 15, 2006 Staff Report) calling for the elimination of the outdoor deck is not acceptable. The deck should not be eliminated.
 - The noise study submitted as part of the CUP Application states:

“Under the present levels of Club activities in vehicle parking and back deck talking, noise levels at the rear property lines shared with adjacent residential properties would be 50 dBA DNL or less, not approaching the 55 dBA DNL San Jose noise guideline. [T]he back deck talking noise at its peak level is less than 52 dBA at the rear property lines.

“[T]he number of people talking on the back deck does not materially affect the overall noise level at the property line.”

See last page of Environmental Consulting Services' October 11, 2006 Noise Study.

- The deck provides an outdoor place for members to meet and counsel with their mentors, to smoke and to talk with one another before and after meetings. **Members often need a place to spread out away from each other so they can talk privately.** Moreover, another commercial establishment in the area (a restaurant) is permitted to have an outdoor deck that faces residential properties.
- The 12/16/06 Staff Report at Page 7, 4th paragraph, mischaracterizes the Club's position regarding “the applicant's stated inability to control use of even a reduced size deck.” The Club's prior List of Concerns and Challenges state that: “It will be difficult to enforce a limit to the number of people who can use the deck at any one time.” The Club never said it was unable to control the use of the deck.
- The Club is willing to:
 - Eliminate the use of the deck until the construction of the sound wall is complete;
 - Prohibit the use of the deck prior to 7:30 a.m. and after 8:00 p.m. daily; and

- Partially enclose the deck area as Staff previously concluded it should be. (See 12/15/06 Staff Report, Page 7, 4th paragraph)
- Suggested changes to the proposed Resolution:
 - Delete **Paragraphs 36 and 37** and replace them with the prior Paragraph 36;
 - Eliminate any reference to the reduction or elimination of deck from the Resolution;
 - Modify proposed **Conditions Precedent 5b** by deleting the proposed current language and replacing it with language that states:

“b. Outdoor Deck. The deck should be substantially modified to partially enclose the deck area to buffer noise and smoking impacts to the adjacent residential properties.” and

- Modify proposed **Concurrent Conditions 12h** to read:

“h. Outdoor Deck Hours/Use Limitations. The outdoor deck shall not be utilized until completion of the Precedent Conditions. Once the precedent conditions are fully completed, the deck shall be utilized by a maximum of 15 persons at any given time. The outdoor deck shall not be utilized prior to 7:30 a.m. or after 8:00 p.m. daily.”

(This suggested change is identical to the language of the Resolution adopted by the Planning Commission.)

- **Hours of Operation:**
 - Staff’s response (see page 7-8 of the report) is not acceptable for the same reasons the Planning Commission adopted the 6:00 a.m. to 10:00 p.m. hours of operation.
 - The Club is willing to restrict any activity in the parking lot before 6:00 a.m. with no entry to the building from the rear until 7:30 p.m.
 - Number 12 of the relevant facts of the Proposed Resolution states: “Operation of any use between the hours of midnight and 6:00 a.m. requires issuance of a Conditional Use Permit.” This fact implies that the Club is permitted to operate after 6:00 a.m. without a CUP.

- There currently is a meeting scheduled at 6:00 a.m. so individuals who have to be at work early in the morning have a meeting to attend before they start their day. This meeting lasts one hour.
- Suggested changes to the Proposed Resolution:
 - Modify proposed **Paragraph 41** to reflect 6:00 a.m.; and
 - Modify **Concurrent Conditions 12c** by changing 6:30 a.m. to 6:00 a.m.

Timing of Site Improvements:

- Staff's proposed change to complete certain site improvements prior to operation of the private club use is unacceptable since the Planning Commission saw fit to allow the Club to operate while the Club met the Conditions Precedent.
- The Club should be open so it can provide valuable and vital services to the community. The Club operated continuously from 1976 until November 1, 2006 when it was required to close its doors since it did not have a completed CUP Application on file with the City of San Jose within an imposed time period.
- As Kelly Conway said in her November 14, 2006 email message to Erin Morris, which should have accompanied the Staff Report since it was received by Staff, **the Club "is the only location in the western part of San Jose that serves as a focal point" to many individuals struggling with their alcohol and drug addictions.**
- If the Club does not timely perform and fulfill the Conditions Precedent once the Club is open, the City can pull the CUP and have the Club shut the doors until the Conditions Precedent are satisfied.
- The Conditions Precedent relating to the site improvements would already have been started and close to completion **BUT FOR** Staff not allowing the Club to obtain the necessary building permits to construct the perimeter wall and perimeter landscaping depicted on the **approved** plans.
- Suggested changes to the Proposed Resolution:
 - Insert **Conditions Precedent 4** from the Resolution adopted by the Planning Commission so that the Proposed Resolution states:

"4. 90 Day Compliance Period. The Club shall be allowed to commence operation immediately contingent upon fulfillment of all Precedent

Conditions within 90 days of the approval of the Conditional Use Permit. ”;

- Change **Conditions Precedent 4** in the proposed Resolution to number 5 and delete the sentence:

“Phase 1 shall be completed prior to commencement of the use.”;

- Change **Conditions Precedent 5** in the proposed Resolution to number 6;
- Change **Conditions Precedent 6** in the proposed Resolution to number 7; and
- Change **Conditions Precedent 7** in the proposed Resolution to number 8;

For the reasons discussed above, the Alano Club of San Jose respectfully requests that Council issue the proposed Resolution with the suggested changes so that the Club can continue to provide the valuable services it has for the past 30 years.

File Number CP05-038
Hearing Date: January 9, 2007
Agenda Item No. 11.3

SUGGESTED CHANGES TO THE PROPOSED RESOLUTION

The following is the list of the Alano Club West of San Jose's suggested changes to the proposed Resolution included with the December 15, 2006 Staff Report. The suggested changes are in the order the changes would be made to the Resolution:

- Eliminate all references to the down sizing, reduction or elimination of the outdoor deck.
- Delete **Paragraphs 36 and 37** and replace them with the prior Paragraph 36 from the November 15, 2006 Resolution.
- Modify **Paragraph 41** to reflect 6:00 a.m.
- Change the references to the Planning Commission on pages 7 and 8 to the City Council.
- Insert **Conditions Precedent 4** from the 11/15/06 Resolution adopted by the Planning Commission so that the Proposed Resolution states:
 4. **90 Day Compliance Period.** The Club shall be allowed to commence operation immediately contingent upon fulfillment of all Precedent Conditions within 90 days of the approval of the Conditional Use Permit.
- Change **Conditions Precedent 4** in the proposed Resolution to number 5 and delete the following sentence:

Phase 1 shall be completed prior to commencement of the use.
- Modify the proposed **Conditions Precedent 5b** by deleting the proposed language and replace it with language that states:
 - b. **Outdoor Deck.** The deck should be substantially modified to partially enclose the deck area to buffer noise and smoking impacts to the adjacent residential properties.
- Change **Conditions Precedent 5** in the proposed Resolution to number 6.
- Change **Conditions Precedent 6** in the proposed Resolution to number 7.

- Change **Conditions Precedent 7** in the proposed Resolution to number 8.
- Modify **Concurrent Conditions 12c** by changing 6:30 a.m. to 6:00 a.m.
- Insert a new **Concurrent Conditions 12h** that reads:
 - h. Outdoor Deck Hours/Use Limitations. The outdoor deck shall not be utilized until completion of the Precedent Conditions. Once the precedent conditions are fully completed, the deck shall be utilized by a maximum of 15 persons at any given time. The outdoor deck shall not be utilized prior to 7:30 a.m. or after 8:00 p.m. daily. (The suggested change is identical to the language of the Resolution adopted by the Planning Commission.)
- Change **Concurrent Conditions 12h** in the proposed Resolution to 12i.
- Modify **Concurrent Conditions 12i** in the proposed Resolution to read:
 - j. Use of Parking Lot. The parking lot shall be available to all members of the public (meeting attendees and club members) who are visiting the private club facility **and shall be used** on a first-come, first serve basis. **The applicant is responsible for publicizing, to all those visiting the site, the availability of the on-site parking to all.** (Additional language bolded)
- Change **Concurrent Conditions 12j** in the proposed Resolution to 12k.

**RELEVANT FACTS AND EVENTS RELATING TO
THE ALANO CLUB WEST OF SAN JOSE,
THE CONDITIONAL USE PERMIT APPLICATION
AND CODE ENFORCEMENT**

The following is a list of facts and relevant events relating to the Alano Club West of San Jose ("Club"), its use of the property located at 1139 & 1143 Minnesota Avenue, San Jose, California, and the code enforcement process.

- | | |
|-------------------|---|
| 1976 | Club started renting property located at 1139 Minnesota Avenue, San Jose, California from The Mormon Church for meetings |
| October 1, 1980 | Club started doing business on this date according to City of San Jose Business License Directory. |
| June 28, 1982 | Club member executed an "Affidavit of Permittee" pursuant to Title 20, Chapter 20.44 Part 1 of San Jose Muni. Code agreeing to accept the Site Development Permit and agreed to be bound to and do all the things required by its terms. File No. H82-04-101. Site Development file is missing currently from the Planning Department's records. |
| October 13, 1982 | Bd. of Directors letter to property owner, Kenneth Stringfellow, stating Club obtained site approval, complete building plans for improvement and expansion of the building. Phase one to include a 342 sq. ft. expansion for two new bathrooms, a new office, and some exterior and interior remodeling. |
| December 6, 1982 | Club obtained building permit to alter stove hood. |
| August 29, 1983 | Club obtained a building permit to "add to and alter interior clubhouse" at 1139 Minnesota Ave. Note on permit states: "Existing parking none, expansion is less than 15%. Therefore no change in existing parking is required by zoning ordinance." |
| November 18, 1983 | Plumbing and Gas Permit 64787 noting use of building as "Alano Club" (work finalized 12/13/84) |
| January 9, 1984 | Electrical Permit 9085 to Club with "use of building" noted as "Meeting Hall and Office" |
| June 24, 1986 | Electrical Permit 27582 to Alano Club to change service |

November 16, 1988	Club paid \$40.00 for a bingo permit issued by the City of San Jose.
May 23, 1990	Approval of Welfare Exemption for both properties
June 20, 1990	Health Inspectors on site
February 24, 1993	Club issued a check to the City of San Jose in the amount of \$121.44 for a "Regulatory Permit."
June 2, 1994	Building permit 37316 issued
January 29, 1996	Club issued a check to the City of San Jose in the amount of \$63.00 for a Permit.
January 21, 1998	Metro Publishing, Inc. article about Club wanting to expand its facilities
January 29, 1998	Club acquired 50% interest in property located at 1143 Minnesota Avenue.
November 2000	Christopher and Sharon Piekarski moved into property on Iris Court with knowledge of Club.
July 18, 2001	Club acquired 50% interest in 1139 Minnesota Avenue.
October 1, 2003	Original complaint regarding property received by Code Enforcement according to Resolution No. 06-16.
November 5, 2003	Warning notice received from San Jose Code Enforcement
December 5, 2003	Response letter to City Inspector Bruce Kalin – Case No: 2000245209 Warning Notice Dated Nov 5, 2003
March 2004	No word from City since letter to Bruce Kalin dated Dec 5, 2003 until request for a meeting held on March 29, 2004
March 15, 2004	Club Board Member met with Carol Hamilton, Sr. Planner.
March 16, 2004	Two Club Board Members met with Iris Court neighbors.
March 24, 2004	Willow Glen Resident article about neighbors wanting less noise and dust.
March 29, 2004	Meeting with City planning – Agenda: Code Enforcement Issues, CUP process, next steps
March 30, 2004	On site inspection by Inspector Bruce Kalin

April 7, 2004 Letter from Bruce Kalin (Code Enforcement) Case No: 2003453209 requesting removal of arbor, removal of security lights, and removal of outside pay phone by April 18, 2004

April 19, 2004 Club Board of Directors meeting outlining what City wants and what Club needs to do

April 21, 2004 Follow-up inspection by Bruce Kalin – **all items completed and removed**

July 27, 2004 Club representatives met with Carol Hamilton, Sr. Planner.

August 9, 2004 Steven M. Haase letter to Dan O’Neil and Norman Lopes confirming outstanding Code compliance issues and Club’s implementation prior to the current conditional use permit requirement, facility did not comply with parking code zoning requirement; determination that use was not established in conformance with the requirements of the zoning code and therefore does not enjoy legal non-conforming status; requirement for Conditional Use Permit (“CUP”) application within 60 days. Haase understood that the Club provides an invaluable service to the community and “it is my goal to assist you in obtaining the necessary permits so that your organization can continue to serve the citizens of San Jose.”

August 19, 2004 Club put long standing verbal good neighbor policy in writing.

August 31, 2004 Meeting between Michael Hannon (Deputy Director) and a Club attorney (Dan O’Neil).

September 23, 2004 Hannon letter to O’Neil discussing prior meeting with regard to neighbors’ complaints regarding excessive noise, building alterations without permits and the requirement for CUP to continue operating; enforcement action deferred until October 9, 2004 in exchange for designation of a “disturbance coordinator” and the drafting of house rules to be provided no later than October 1, 2004.

October 5, 2004 Letter from Dan O’Neil to Mike Hannon following up from meeting held on August 31, 2004

October 21, 2004 Inspection date observing violations for 1139 and 1143 Minnesota Avenue

October 28, 2004 Date of Notice for Compliance Order (**First Compliance Order**) with an October 28, 2004 Inspection Date giving a November 30, 2004 compliance date with requirement of submission of CUP application.

Approx. Nov. 2004 Club erects redwood fence along rear property line adjacent to Piekarski property at no cost to Piekarski when rain and wind knocked over Piekarski's fence. The Club also erected a second portion of the fence towards the front of Piekarski's property approximately a year prior to this work.

November 26, 2004 Club letter to co-owner Stringfellow Properties LLC requesting signature on CUP Application

December 7, 2004 Date of Notice for Compliance Order with the October 28, 2004 Inspection Date giving a December 17, 2004 compliance date with requirement of submission of CUP application.

December 8, 2004 Fax to Stringfellow regarding signature required on CUP Application

December 10, 2004 Date of Notice for Compliance Order with the October 28, 2004 Inspection Date giving a compliance date of January 14, 2005. Corrective action required the filing a complete CUP application and all activity take place within the interior of the Club. Otherwise, the Club will be required to close immediately if noise complaints are received.

December 17, 2004 Fax to Mike Hannon providing notice of Kids X-Mas party to be held indoors on Dec 18th

January 9, 2005 Letter to M. Hannon with Protocols and Policies, plus club rules

January 13, 2005 Over 500 letters of support delivered to Ken Yeager
Letter from Stringfellow indicating refusal to sign CUP

January 14, 2005 Club closed at 5 pm by city

January 19, 2005 Club reopened at 6 pm per code enforcement. Club asked not to use back parking lot for the time being plus requested to ask supporters to stop calling, faxing, e-mailing, and sending letters. Ken Yeager's office and Planning/Code Enforcement being over-loaded.

January 20, 2005	Date of Notice for Compliance Order with an October 28, 2004 Inspection Date giving a compliance date of February 18, 2005 with same requirements as 12/10/04 Compliance Order.
February 11, 2005	Stringfellow Properties once again changed mind and refused to sign the CUP Application and decided not to sell (5 th or 6 th time in the last 2 plus months).
February 24, 2005	Club filed partition lawsuit against Stringfellow since co-owner unwilling to sign CUP Application.
March 1, 2005	Date of Notice for Compliance Order with an October 28, 2004 Inspection Date giving a compliance date of June 21, 2005 with same requirements as 12/10/04 Compliance Order.
June 27, 2005	Club filed CUP Application with City of San Jose.
July 5, 2005	Staff letter to Club indicating that CUP Application No. CP 05-038 was incomplete.
July 25, 2005	Club retains Hoge, Fenton, Jones & Appel as attorneys.
September 1, 2005	Club filed Legal Nonconforming Use Letter Application with City of San Jose claiming Club was a legal nonconforming user because Club existed at same location since 1976
September 21, 2005	Date of Notice for Compliance Order with an October 28, 2004 Inspection Date giving a compliance date of October 21, 2005 with requirement of filing completed CUP Application.
October 24, 2005	Meeting with Councilmember Ken Yeager, City Attorney and Senior Deputy City Attorney, Planning Director, Deputy Director for Code Enforcement, Club representatives and Club attorneys to discuss solutions to Club's use.
October 26, 2005	Date of Notice for Compliance Order with an October 28, 2004 Inspection Date giving a compliance date of November 28, 2005 with requirement of filing completed CUP Application.
October 27, 2005	Planning Staff responded to Club's Legal Nonconforming Use Letter Application denying legal nonconforming use status.
December 1, 2005	Pro Bono Professional Engineer ("PE") offers to assist Club in working with Staff and completing CUP Application within two weeks.

December 12, 2005	Date of Notice for Compliance Order with an October 28, 2004 Inspection Date giving a compliance date of January 16, 2006 with requirement of filing completed CUP Application.
January 12, 2006	Club dismissed partition action against co-owner without prejudice.
January 23, 2006	Date of Notice for Compliance Order with an October 28, 2004 Inspection Date giving a compliance date of February 3, 2006 with requirement of filing completed CUP Application.
February 3, 2006	PE submits a drawing to Staff in an attempt to complete CUP Application.
February 7, 2006	Michael Hannon sent letter to PE indicating that Planning Staff advised project still incomplete.
February 8, 2006	Re-inspection date
April 11, 2006	Notice of Hearing for April 27, 2006 hearing date before Appeals Hearing Board.
April 20, 2006	Deputy City Attorney confirmed taking hearing before Appeals Hearing Board off calendar due to new compliance order being issued in the near future.
May 2, 2006	City Inspection of property
May 8, 2006	Initial Compliance Inspection Report issued
June 13, 2006	Date of Notice for Compliance Order noted "Amended June 8, 2006" with May 2, 2006 Inspection Date giving compliance date of June 23, 2006 for obtaining the CUP, obtain a Special Use Permit to allow use of parking on adjoining property, to meet parking requirements, cease use of deck, adjust lights and come in compliance with 9 building code issues.
June 18, 2006	Club letter to Councilmembers Yeager and Cortese requesting assistance and stating that the Club was in process of trying to locate another building to lease with hopes to be out of current facility within 6 months to 1 year.
June 23, 2006	Club members approve Mike Formico to deal with CUP issues.

August 30, 2006	Service of Notice of Hearing before the Appeals Hearing Board scheduling a September 14, 2006 hearing. Hearing continued at the request of Club's counsel to next available date, which was September 28, 2006 for counsel. Hearing continued to October 12, 2006 believed due to unavailability of Deputy City Attorney.
September 12, 2006	Notice of continuance of the meeting of Appeals Hearing Board
October 12, 2006	CUP Application deemed complete by Planning Staff Appeals Hearing Board hearing.
October 30, 2006	Community Meeting to discuss CUP Application with members of the community.
November 1, 2006	Club closed its doors and ceased operations pursuant to Appeals Hearing Board decision.
November 15, 2006	Planning Commission Meeting with approval of CUP Application
November 20, 2006	David Cayton's Notice of Permit Appeal received.
November 27, 2006	Chris Piekarski's Notice of Permit Appeal received.
December 15, 2006	Date of Staff Report
January 9, 2007	Date of Administrative Hearing on appeals