

**MINUTES
PLANNING COMMISSION MEETING
JULY 9, 2019
CORTE MADERA TOWN HALL
CORTE MADERA**

COMMISSIONERS PRESENT: Chair Peter Chase
Vice-Chair Phyllis Metcalfe
Commissioner Bob Bundy
Commissioner Charles Lee
Commissioner Margaret Bandel

STAFF PRESENT: Adam Wolff, Planning Director
Martha Battaglia, Senior Planner
Judith Propp, Assistant Town Attorney

1. OPENING:

A. Call to Order – The meeting was called to order at 7:00 p.m.

B. Pledge of Allegiance – Commissioner Chase led in the Pledge of Allegiance.

C. Roll Call – All the commissioners were present.

2. PUBLIC COMMENT - None

3. CONSENT CALENDAR – None

4. CONTINUED HEARINGS – None

5. NEW HEARINGS

- A. 400 TAMAL PLAZA (THE CAVE) - CONDITIONAL USE PERMIT AMENDMENT TO EXPAND AN EXISTING COMMERCIAL GYM (THE CAVE)** (Senior Planner Martha Battaglia)

The commissioners confirmed they had made a site visit and Senior Planner Battaglia discussed the purpose of conditional use permits, which she noted are discretionary.

Ms. Battaglia presented the staff report, explaining that the proposed project is to expand an existing commercial gym to the second floor of a building in the light industrial zoning district. She provided background information on a previously approved Conditional Use Permit (CUP) and an amendment to the permit that increased the size of the gym, which included minor design review to the exterior.

Ms. Battaglia discussed the first floor plan, other building tenants, the proposed 2,300 square foot expansion use of the second floor for gymnastic and dance classes, and the proposed hours of classes.

Ms. Battaglia went on to discuss the parking requirements, noting that an additional 6 spaces are required for the expansion (which have been met), and a shared parking agreement among the 5 office buildings.

Ms. Battaglia discussed the measures proposed by the applicant to address the noise concerns expressed by CliC Goggles, a tenant below the gymnastics space. She stated that the building is difficult to soundproof because of its age and that staff is recommending limitations to the pre-rec gymnastics classes, which she discussed.

Ms. Battaglia discussed the findings that are needed to approve the project, noting that staff is able to support the project with the proposed additional conditions.

Ms. Battaglia clarified the conditions for Vice-Chair Metcalfe.

In response to Chair Chase, Ms. Battaglia discussed the permitted and conditional uses for the building.

Roger Harrell, founder and operator of The Cave, discussed the need to expand their business and the conditional use permit that is needed for space they had occupied on the second floor. Mr. Harrell discussed the mitigation measures they have taken to reduce the noise levels in the tenants' space on the first floor, noting that total mitigation is not possible. He explained that the requested expansion is modest in relation to the size of their facility and that there is little change in use. He requested that classes in the children's activity room are allowed to begin at 2:30 p.m., rather than at 3:30 p.m., for reasons he discussed.

In response to Commissioner Bundy, Mr. Harrell stated that data was not available showing the difference in noise levels after mitigations had been implemented on the second floor.

In response to Commissioner Bandel, Mr. Harrell explained that their programs would be limited if classes could not begin at 2:30 p.m., which is a more convenient time for pre-school students. They discussed noise and vibration levels, and a light fixture that fell from the ceiling on the first floor.

In response to Vice-Chair Metcalfe, Mr. Harrell discussed the difficulty and time constraints of moving equipment for pre-rec classes from the ground floor to the second floor if classes could not begin before 3:30 p.m. He reminded the commissioners that the building space could be used for a furniture-making use, which he said would be noisier than the activity they are proposing.

Miles Woodlief, representing Teeny Tiny Optics and CliC Goggles, discussed the noise, vibration and safety problems relating to the proposed expansion of the second floor, and he requested that second floor classes begin at 4 p.m. from Monday to Friday.

Mr. Woodlief went on to discuss the need to consider the construction and purpose of the building in relation to the utilization of the second floor space and for the applicant to accommodate the needs of the neighboring tenants.

Mr. Woodlief and Commissioner Bandel discussed the request to allow classes to begin on the second floor at 4 p.m., and Mr. Woodlief confirmed they were aware of the permitted uses when the businesses occupied the premises.

Chair Chase opened the public comment period.

David Peterson, building owner, discussed the amount of time that elapsed while the second floor remained unoccupied, and he noted that a musical group could occupy the premises without needing a CUP. Mr. Peterson stated that he did not think the kids were noisy and he noted that the tenant renewed their 5-year lease while the applicant was using the second floor space for classes.

In response to Commissioner Bandel, Mr. Peterson stated that the tenants had not raised concerns about the noise until a request for an expansion of the CUP had been made.

In response to Commissioner Bundy, Mr. Peterson said he has not considered employing an acoustic engineer to consider mitigation methods, but that they have undertaken a certain amount of soundproofing in the past.

Chair Chase closed the public comment period.

Chair Chase reminded the commissioners that the use is not permitted and that they must decide if a use permit could be granted after considering the impacts. Chair Chase and Mr. Wolff discussed the options for the commissioners' consideration.

Commissioner Bandel stated that she would not have a problem granting the use permit but with conditions, and noted that she would normally prioritize the wishes of workers. However, she acknowledged that the permitted uses could also be noisy and Chair Chase stated that he would have difficulty granting a CUP to make noise.

Commissioner Lee stated that the CUP would need to be conditioned for limited hours of operation if it were approved. He discussed the difficulty of resolving issues that are related to the lease rather than to land use, and acknowledged that it is unlikely the commissioners could resolve the noise problems to all parties' satisfaction. Commissioner Lee expressed a desire that the parties had communicated more effectively before tonight's hearing to try and resolve their problems.

In response, Chair Chase noted that the decisions the commissioners make concern impacts.

Vice-Chair Metcalfe stated that she agreed with Commissioner Lee that the parties should have tried to resolve the issues before tonight's hearing. Vice-Chair Metcalfe acknowledged that thumping sounds were difficult to work with but that, overall, she would support staff's recommendations to allow the second floor to be used from 3:30 p.m. and that she did not support classes being limited to starting at 2:30 p.m. or 4 p.m.

Commissioner Bundy noted that the compromise suited neither party and he acknowledged the difficulty of operating an office with background noise. Since the business is already operating under a CUP and the landlord is allowing expansion to the second floor, Commissioner Bundy stated that he would support the compromise, although he would ask the landlord to undertake an acoustic consultation and for The Cave to begin hours of operation on a voluntary basis at 5 p.m.

Chair Chase stated his belief that allowing one tenant to detrimentally affect another tenant through the CUP exceeds their authority, and he noted that the tenant has conceded an hour at the end of their business day. Chair Chase commented on the administration of the building being the landlord's concern and that an acoustic problem should not be solved by the tenants or the commissioners.

Vice-Chair Metcalfe led a short discussion on the possibility of The Cave using Suites 425 and 426 above the gym.

Commissioner Lee said he would support staff's recommendation with the condition that the lighting be replaced in the offices below the new space if the vibrations above are causing parts to fall.

Chair Chase discussed floor materials that limit sound transmission.

Chair Chase asked the parties to consider the proposed compromise. He stated that the remaining items on the agenda would be heard before recommencing discussions on the item and he announced a 10-minute break.

6. BUSINESS ITEMS – None

7. ROUTINE AND OTHER MATTERS

A. REPORTS, ANNOUNCEMENTS AND REQUESTS

i. Commissioners

Commissioner Bundy reported on the July 2nd Board Meeting at which the following matters were discussed: The effectiveness of the chipper program and a TAM Ridge

traffic study. He also reported that the planning application relating to 360 Corte Madera Avenue was rescinded at the request of the original applicant and the new owner.

Commissioner Bandel reported on the June 18th Town Council meeting where a long line of public speakers discussed the need to reinstate a crossing guard at Chapman when the new school year begins. Commissioner Bandel also reported that Jim Andrews has become the new mayor and Eli Beckman the new vice-mayor; that discussions also included Mill Valley Refuse Service's rates and that the capital budget was approved.

ii. Planning Director

Planning Director Wolff reported that the Council rescinded the approval that was granted by the Planning Commission for design review and a variance request for 360 Corte Madera Avenue with the result that no entitlements exist.

Counselor Propp stated that a request to rescind an application is a public process and that the request was made to the Town Council because the application had been appealed.

Mr. Wolff noted that he had sent the TAM Ridge Post-Occupancy Study that had been prepared for the Town Council, together with the staff report, which he asked the commissioners to review. Mr. Wolff explained the study's relevance to the Town's future housing policy. Mr. Wolff confirmed that the results concluded that traffic has been minimally impacted.

Vice-Chair Metcalfe discussed potential housing legislation.

Chair Chase opened the public comment period for a member of the public to comment on the TAM Ridge report.

David Peterson, 400 Tamal Plaza, confirmed their property has not been impacted by TAM Ridge.

Chair Chase closed the public comment period.

iii. Tentative Agenda Items for the Tuesday, July 23, 2019 Planning

iv. Commission Meeting

(PROPOSED ITEMS, AND ORDER, ARE SUBJECT TO CHANGE)

- A. 195 CASA BUENA DRIVE (MARIN LUXURY CARS) – MAJOR DESIGN REVIEW AND VARIANCE FOR RECONSTRUCTION OF THE EXISTING JAGUAR/LAND ROVER SHOWROOM FAÇADE, UPDATED SIGNAGE, REPLACEMENT OF TEST COURSE WITH**

DISPLAY PARKING, AND VARIANCE FOR PARKING WITHIN THE FRONT SETBACK AREA.

B. ACCESSORY DWELLING UNIT ORDINANCE DISCUSSION – REVIEW AND DISCUSSION OF PROPOSED AMENDMENTS TO CORTE MADERA’S EXISTING ACCESSORY DWELLING UNIT (ADU) REGULATIONS.

C.

v. Future Agenda Items

(PROPOSED ITEMS, AND ORDER, ARE SUBJECT TO CHANGE)

B. MINUTES

i. Planning Commission Meeting Minutes of June 11, 2019

MOTION: Motioned by Commissioner Bundy, seconded by Commissioner Lee, to approve the minutes of June 11, 2019:

AYES: Metcalfe, Bundy, Chase, Bandel, Bandel

NOES: None

5A. 400 TAMAL PLAZA – Continuation

Chair Chase opened the public comment period.

Miles Woodlief announced that the parties have agreed to staff’s recommendation that The Cave’s activities on the second floor above his client’s offices will begin at 3:30 p.m. Monday through Thursday with the restriction lifted from Friday through Sunday.

Roger Harrell and Chair Chase discussed flooring materials that would help to mitigate noise problems.

Mr. Wolff confirmed that if the conditions changed, a new application could be submitted to modify the CUP or remove some of the conditions.

Counselor Propp discussed the condition that should be amended to include replacement of the existing light fixtures for CliC Goggles and Teeny Tiny, subject to the Building Official’s review.

MOTION: Motioned by Vice-Chair Metcalfe, seconded by Commissioner Bundy, to approve Resolution No. 19-019, Conditional Use Permit Amendment Application PL-2019-0010 for an approximate 2,300 square foot expansion of the second floor of an existing commercial gym (The Cave) at 400 Tamal Plaza for the purpose of providing Children’s gymnastic classes and dance classes with the following additional conditions of approval and amendment to condition no. 2:

2. The applicant will be responsible for the modification or replacement of the lighting fixtures in the hallway on the first floor by the offices of CliC Goggles and Teeny Tiny;
14. The Planning Commission will review the Conditional Use Permit after 12 months.
15. A good faith effort will be made by the applicant to reduce the current noise impacts;

AYES: Metcalfe, Bundy, Chase, Bandel, Bandel

NOES: None

8. ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 9 p.m.