

**WEST VALLEY CITY  
PLANNING COMMISSION  
MINUTES**

**May 9, 2012**

The meeting was called to order at 4:01 p.m. by Chairman Brent Fuller at 3600 Constitution Boulevard, West Valley City, Utah

**WEST VALLEY CITY PLANNING COMMISSION MEMBERS**

Harold Woodruff, Brent Fuller, Terri Mills, Phil Conder, Joe Garcia,  
Barbara Thomas, and Imaan Bilic

**ABSENT**

Jack Matheson

**WEST VALLEY CITY PLANNING DIVISION STAFF**

Steve Pastorik, Steve Lehman, Jody Knapp, and Nichole Camac

**AUDIENCE**

Approximately ten (10) people were in the audience

## **SUBDIVISION APPLICATIONS**

### **S-5-2012**

**Highbury Shoppes Subdivision Lot 5E Amended  
2807 South 5600 West  
C-2 Zone  
2 Lots**

### **BACKGROUND**

Ken Petty, representing King Chow, is requesting an amendment to lot 5E of the Highbury Shoppes Subdivision. The proposed subdivision will amend lot 5E to create an additional lot.

### **STAFF/AGENCY CONCERNS:**

There are no staff or agency concerns with this application as they have been addressed as part of the original subdivision application. Issues related to land development were addressed during the conditional use application for the Richardson Design building.

### **ISSUES:**

The Highbury Shoppes Subdivision was recorded with the Salt Lake County Recorder's Office in October 2006. The subdivision plat consisted of 6 lots to accommodate a variety of land uses. To date, lots 5A, 5C and 5F have been developed. Lots 5D and 5E have been approved for development. Uses within this shopping center include restaurants, retail and banking.

The purpose for this subdivision will be to amend lot 5E to create one new lot. The owner of the property has explained that at some point in the future they would like the ability to sell off the retail space at the northwest corner of lot 5E. During the study session, the Planning Commission raised questions regarding the parking situation. As part of the original subdivision, a note was placed on the plat that reads as follows:

*Hereby granted by virtue of this plat are easements in favor of lots 5A, 5B, 5C, 5D, 5E and 5F Highbury Shoppes Subdivision for the purpose of cross access, cross parking and cross drainage over all areas which are not covered by buildings.*

Staff will reference this note on the new plat to ensure that parking concerns will be mitigated. Staff has also contacted the original developer to discuss the application. Based on staff's conversation with Josh Jensen, Property Manager for Amsource, they also expressed concerns regarding the parking. However, after reminding them of the note on the original plat, which will also be placed on this plat, staff believes this concern has been adequately addressed.

The amended subdivision will meet all frontage and area requirements of the C-2 zone. All conditions and requirements of the original plat are still in force with this application.

### **STAFF ALTERNATIVES:**

A. Approve the plat amendment for the Highbury Shoppes Subdivision subject to a

resolution of staff and agency comments.

- B. Continuance to allow for more discussion regarding the application.

**Applicant:**

Ken Petty  
8610 S Sandy Parkway  
Sandy, UT

**Discussion:** Steve Lehman presented the application. Ken Petty, representing the applicant, explained how the existing lots will be split and indicated that there are enough parking stalls for the overall site. Mr. Petty stated that dividing the lot in this configuration will help the applicant financially. Barbara Thomas asked where access points will be. Mr. Petty replied that there will be an access from Highbury Parkway to the South, High Commons Way, and 5600 West. Phil Conder asked why the plat shows a slight jog in the property line. Mr. Petty replied that this was done to line up the parking stalls.

There being no further discussion regarding this application, Chairman Fuller called for a motion.

**Motion:** Commissioner Thomas moved for approval.

Commissioner Woodruff seconded the motion.

**Roll call vote:**

Commissioner Bilic	Yes
Commissioner Conder	Yes
Commissioner Garcia	Yes
Commissioner Mills	Yes
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Fuller	Yes

**Unanimous-S-5-2012-Approved**

**S-6-2012**

**West Valley Maverik Subdivision - Commercial Subdivision**

**5400 South 5600 West**

**C-2 Zone**

**1 Lot**

**BACKGROUND**

Todd Meyer's, representing Maverik Incorporated, is requesting preliminary and final subdivision approval for a 1-lot commercial subdivision in the C-2 Zone. The subject property is located at the northwest corner of 5400 South 5600 West.

**ISSUES:**

The West Valley Maverik Subdivision is being proposed to create a new lot for the Maverik store. The existing store recently received conditional use approval from the Planning Commission and is currently undergoing a remodel. As a result of the remodel, the store becomes larger and will require more property than what the store has been operating with.

The Planning Commission may recall that this lot was going to be subdivided as part of the Villages at Westridge Subdivision. However, due to access delays on 5400 South with UDOT that subdivision is on hold. In order to expedite the construction of the new store, Maverik decided to move forward with their portion of the subdivision.

The subdivision consists of 1 lot on 1.37 acres. The remaining property will be divided as part of the Villages at Westridge PUD at some point in the future. As part of the subdivision, the developer will be required to dedicate an additional 10 feet of right-of-way along 5600 West. The developer will also be required to dedicate an additional 4 feet on 5400 South. It should be noted that UDOT has approved both access points for the new Maverik store.

**STAFF ALTERNATIVES:**

1. Approve the West Valley Maverik Subdivision subject to a resolution of staff and agency comments.
2. Continue the application to address concerns raised during the Planning Commission hearing.

**Applicant:**

Todd Meyers  
880 W Center St  
North Salt Lake, UT

**Discussion:** Steve Lehman presented the application. Todd Meyers, the applicant, stated that the property is now owned by Maverik so this must be legally divided and shown on a plat. He indicated that a new and larger Maverik store is now under construction. Mr. Meyers stated that the access points into the Maverik will be further from the intersection of 5400 S 5600 W. He added that a cross access easement for the neighboring proposed commercial lot has been signed. Barbara Thomas asked if the applicant is aware that some of the right-of-way information provided on the proposed plat is inaccurate. Steve replied that the applicant is aware of this and the correct changes will be reflected on the final plat.

There being no further discussion regarding this application, Chairman Fuller called for a motion.

**Motion:** Commissioner Mills moved for approval.

Commissioner Garcia seconded the motion.

**Roll call vote:**

Commissioner Bilic                      Yes

Commissioner Conder	Yes
Commissioner Garcia	Yes
Commissioner Mills	Yes
Commissioner Thomas	Yes
Commissioner Woodruff	Yes
Chairman Fuller	Yes

**Unanimous-S-6-2012-Approved**

**CONDITIONAL USE APPLICATIONS**

**C-16-2012**

**El Palenque (Mai Nguyen)  
 1980 West 3500 South  
 C-2 Zone (1.9 Acres)**

The applicant, Mai Nguyen, is requesting a conditional use amendment for a restaurant with beer/ dance club license and restaurant/retail use located at 1980 West 3500 South. The zoning for this area is C-2, General Commercial. The West Valley City General Plan anticipates General Commercial uses for this area. The surrounding zones include C-2 to the south, east and west and R-1-6 to the north. The surrounding uses include a restaurant to the west, a convenience store, auto repair and residential to the east, and residential to the north.

The Planning Commission initially reviewed this development for a renovation project on October 13, 2010 (C-25-2010). The proposal included a building remodel, enhancing the landscaping and repairing the parking lot and fencing. At this time, the building remodel and fencing have been completed. The landscaping and parking lot on site are in need of repair however, this will be completed by December 2012, per the previous conditions of approval. The signage on site will also be relocated as part of the landscaping project and the signs on the premises for tenants that are no longer operating shall be removed.

Another component of C-25-2010, included review of the tenant mix, hours of operation and parking. There are 109 parking spaces on site and the tenant mix called for a greater number of parking spaces. The businesses at this location were all licensed at the time and the tenant mix was similar to what had been approved historically. Therefore, Staff suggested to take a snapshot of the uses as they existed at that time and not allow the uses to intensify but allow them to continue to operate as they had been. The approved list is as follows:

<b>Use</b>	<b>Business</b>	<b>Size</b>	<b>Parking</b>
Restaurant	Pho Green Papaya	2800	33
Office	Insurance Company	800	3
Office	Insurance Claims	400	2
Retail	Hair Salon	500	2
Restaurant	Bucket O' Crawfish	3000	35
Reception/Club	El Palenque (Sats only)	9600	192
Reception/Club	Victors Reception	4500	90
<b>Totals</b>		<b>21600</b>	<b>357</b>

The applicant, Ms. Nguyen, would like to modify the uses on site and has applied for a Conditional Use amendment to do so.

The first request is to modify the space that was previously occupied by Victor's Reception. Ms. Nguyen would like to break up this space in to 3 separate uses that would include a 2,000 square foot sushi restaurant (Fat Fish Sushi), a 1500 square foot retail space and then another 1000 square foot retail space (JSM Phone). Staff is supportive of this alteration and feels that this change would be beneficial to this site because the parking demand would be greatly decreased. The parking requirement for a 4500 sqft reception center is 90 spaces, and that requirement would go down to 40 spaces for the proposed retail/restaurant proposal.

The second request is to modify the use, square footage and hours of operation for the El Palenque dance club. The use would be expanded by the addition of an 800 sqft restaurant that would also serve beer. The restaurant would be open from 11:00 a.m. – 9:00 p.m. Monday – Wednesday and 11:00 a.m. – 1:00 a.m. Thursday – Sunday. The dance club portion of El Palenque is now 9100 square feet after the building renovation and would operate from 10:00 p.m. – 4:00 a.m. The proposal is for the 2 uses to mix together by opening up the back of restaurant and then the food and beer could go from the restaurant in to the dance club from 10:00 p.m. – 1:00 a.m.

The tenant mix for those proposals is as follows:

Use	Business	Size	Parking
Restaurant	Pho Green Papaya	2800	38
Office	Insurance Company	1400	6
Restaurant	Bucket O' Crawfish	3000	35
Reception/Club	El Palenque	9100	182
Restaurant	Rest w/ Beer	800	18
Restaurant	Fat Fish Sushi	2000	30
Retail	JSM Cell Phone	1000	4
Retail	Vacant	1500	6
<b>Totals</b>		<b>21600</b>	<b>319</b>

Typically a restaurant with beer functions by itself and does not include a secondary use like a dance club. Staff is concerned about the mix of the 2 uses and the ability for beer to be brought in to the dance club area and outside of the restaurant. The club is also promoted as a "teen club" since liquor is prohibited so the addition of beer is a concern to the West Valley City Police Department.

Several of the neighbors have also voiced their concerns and submitted letters, which are attached for your review, about the expansion of the hours of operation from a one-night a week dance club to 4 nights when it is so close to a residential neighborhood. If this were a brand new use those impacts would be mitigated by 7-6-1012 which was added to the Code in 2007 and states the following:

**7-6-1012. ADDITIONAL REGULATION OF RESTAURANTS, DANCE HALLS, CONCERT HALLS, RECEPTION CENTERS AND CLUB LICENSEES.**

(1) It is unlawful for the keeper, manager or person in charge of any restaurant, dance hall, concert hall reception center or club licensee to permit any singing, dancing, Indoor or Outdoor Public Recreation, playing of musical instruments or any other form of amusement or entertainment to be carried on the premises when the closest point of the building is within 500 feet of any residential property line after ten o'clock P.M. (10:00) P.M. and before six o'clock (6:00) A.M. This restriction should be extended to two o'clock (2:00) a.m. on January 1 of year for New Year's Day.

(2) Parking lots must be closed and vacated within thirty (30) minutes of closing by security personnel.

This restriction was not imposed initially because of the prior use of the property and the fact that no alcohol/liquor would be permitted and the hours were limited to one-night a week (Saturday). Therefore, Staff feels that the expansion of the use, which does not conform with the separation standards listed above, is not appropriate at this location.

The complaints have also addressed concerns with noise coming from the parking lot and building, especially when the doors on site are left open while music is playing. Therefore, staff recommends that the Dance Club, El Palenque follow the guidelines set forth by the Slat Lake Valley Health Code and limit the noise after 11:00 p.m. in accordance to those standards.

**Staff Alternatives:**

**Approval**, of the reception center conversion to retail/restaurant and **Denial** of the addition of a restaurant with beer to the dance club. Approval of the reception center conversion to retail/restaurant is subject to the resolution of any concerns raised at the public hearing, as well as the following conditions:

1. The approved tenant mix shall be as follows:

<b>Use</b>	<b>Business</b>	<b>Size</b>
Restaurant	Pho Green Papaya	2800
Office	Insurance Company	1400
Restaurant	Bucket O' Crawfish	3000
Reception/Club	El Palenque (Saturdays only)	9100
Retail/Office	Vacant	800
Restaurant	Fat Fish Sushi	2000
Retail	JSM Cell Phone	1000
Retail	Vacant	1500
<b>Totals</b>		<b>21600</b>

2. The Dance Club space occupied by El Palenque shall continue to operate as was originally approved in C-25-2010, as a Dance Club that is open Saturdays only.

3. All signage shall meet the requirements in the Sign Ordinance and signs for tenants that are no longer operating on the premises shall be removed.
4. Loitering in the parking lot or exterior spaces is prohibited during the hours of 11:00 p.m – 8:00 a.m.
5. All requirements of affected departments and agencies must be met including but not limited to the Salt Lake Valley Health Department, UDOT and West Valley City Public Works, Police, Fire and Building Inspection Departments.
6. Subject to review upon valid complaint.

**Continuance**, to allow for the resolutions of any issues raised at the public hearing.

<b><u>Applicant:</u></b> Mai Nguyen 2398 S Summit SLC, UT	<b><u>Opposed:</u></b> David Caulder	<b><u>Opposed:</u></b> Jack Jones 3440 S 1940 WWVC PD Dept.	<b><u>Neutral:</u></b> Sergeant Powell
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**Discussion:** Jody Knapp presented the application. Barbara Thomas asked if there is security on site during the hours the club is open. Jody replied yes. Joe Garcia asked if clubs are required to close at 1:30am. Jody replied that clubs are not required to close at 1:30am but alcohol cannot be sold after 1:00am. Commissioner Thomas asked if there will be a kitchen area in the restaurant portion of the proposal. Jody replied that there are no drawings that have been submitted for a kitchen.

Mai Nguyen, the applicant, stated that the restaurant proposed in this application is 800 square feet. She stated that any beer sold must be consumed in the restaurant area and will not be allowed into the club. She added that the club and restaurant will be owned by separate people and stated that food will be permitted between the two sides of the building but not beer. Ms. Nguyen added that there will be security at all times to enforce this requirement. She indicated that The Bucket of Crawfish also operated in this way for awhile and there were no problems. Commissioner Thomas asked what type of clientele would likely be going to this restaurant/club. Mr. Nguyen replied that it is a mixture of people but primarily families. Commissioner Thomas asked if Ms. Nguyen is aware of resident concerns. Mr. Nguyen stated that she has put up a wall so she is unsure how sound is still carrying to the neighbors homes. Commissioner Garcia asked if Ms. Nguyen is aware of any loitering outside the club. Mr. Nguyen replied that she could require that the rear doors are closed at all times and only the front door can be used for entering and exiting. Brent Fuller asked what the purpose of the overhead door to the rear of the building is. Ms. Nguyen replied that it is used to bring equipment for bands or dj's in but she added that she doesn't have a problem sealing this if the Planning Commission wishes. Ms. Nguyen stated that off duty police officers are also hired to ensure there are no problems. She added that the dumpster can be moved to the other side of the site to prevent noise problems from that as well. Commissioner Thomas asked what type of kitchen will be located in the restaurant. Ms. Nguyen replied that there will only be a small kitchen since the restaurant will be similar to a taco stand.



David Caulder, a neighbor, stated that he owns a commercial business in this area as well as a home. He stated that he feels this club goes above and beyond what the noise ordinance allows and stated that the music goes until well past 2am which makes it almost impossible for him to sleep. Mr. Caulder indicated that extending the hours to 4am would be terrible for the residents and he added that this is definitely not the type of place where families come to spend time together. He stated that this is not a good area for a dance club since it is so near residential. Mr. Caulder stated that he doesn't believe someone would be eating, have a beer, and go to the dance club separately. He feels the two will inevitably mix. Mr. Caulder stated that the cement walls have not made a difference at all. Commissioner Garcia asked if Mr. Caulder can see the business from his home to determine whether the music is coming from the club or cars idling in the parking lot. Mr. Caulder replied that he is positive the music is coming from the club.

Jack Jones, a resident, stated that he has owned his home for 22 years and this has been an ongoing and consistent problem. He stated that on April 29, 2012 he called the police because he couldn't sleep and indicated that this is something he has had to do many times in the past. He stated that while the parking lot is well lit now there are still people playing music and being loud outside of the club as well as some of the music inside the club. He stated that the doors at the rear of the club are opened and when he was woken on April 29, 2012 there were between 30-40 people standing outside. Mr. Jones stated that the club being able to remain open until 4am is completely unfair and disrespectful to the residents in the area. Mr. Jones added that this site has enough restaurants and he doesn't feel adding two more is necessary.

Sergeant Mike Powell, representing the West Valley City Police Department, stated that the Police Department is aware of the events and activities on this site. He stated that the PD has been working with Ms. Nguyen and the manager of El Pelenque to try and improve some of the major concerns. He stated that calls for Police have decreased this year when compared to 2011. He indicated that these are only reported incidents though and doesn't necessarily indicate an improvement in problems. Sergeant Powell stated that enforcement was done in the parking lot so problems there seemed to have improved. He added that the removal of the reception center also improved things significantly. Sergeant Powell stated that the only other concern the PD would have is that the applicant abide by State Law regarding alcohol.

Jack Jones stated that officers have come and verified the validity of noise complaints in the area. He stated that the building was under construction for 6 months so this may be why there was a decline in Police calls. He added that the business is only open on Saturdays now as well so there isn't as much time for complaints to be called in. Mai Nguyen indicated that El Pelenque was open the entire time during construction since only the exterior was worked on.

Commissioner Thomas asked if the club is currently only open on Saturday nights. Jody replied yes. Commissioner Thomas asked if there is a problem with signage. Jody replied that old business signs just need to be removed. Jody stated that the staff report was written to approve the reception center conversion to a restaurant/ retail use and deny the change to the club. Jody added that the applicant could resubmit

different plans if they choose. Terri Mills asked whether alcohol can be sold this near to residential. Jody replied that this rule only applies to churches, school, etc. Commissioner Thomas asked if a different band is used every time or the same one. Jody replied that different bands and dj's are used.

Jack Jones stated that the music is not always from the club and sometimes it does come from the parking lot.

Commissioner Fuller asked if restrictions can be done to the existing club if this application was partially denied. Jody replied no and stated that the business would just continue to exist as is with Saturday only and no alcohol. Commissioner Garcia stated that he understands the concerns of the residents and indicated that all the comments received weigh heavily on his mind. Barbra Thomas stated that she is concerned with the restaurant because of the size and lack of information regarding the kitchen. She stated that she doesn't believe a taco stand constitutes a restaurant that allows beer.

Ms. Nguyen stated that she is willing to make any changes that will make this work for both the business and the residents. She stated that there will be a kitchen with a grease trap, menu, etc. She stated that she could take the overhead door out of the rear of the building and insulate that to help with sound and also restrict the back doors from being used unless there is an emergency. She stated that there were recently 3 cooling units installed on the roof so she isn't sure why there would be any air conditioning problems within the club. Imaan Bilic stated that there must be noise coming from somewhere if so many residents are having concerns. She stated that cars moving would only be a quick disturbance rather than a constant one that lasts till very late in the evening. She added that the hired off duty police officers on site would be able to control idling cars in the parking lot. Ms. Nguyen stated that she is positive the sound is not coming from within the building so she isn't sure where it could be coming from.

Harold Woodruff stated that the Planning Commission could continue this item and request that the applicant provide more information. He added that it may be worthwhile to have staff go out and listen to the noise generated by the club.

There being no further discussion regarding this application, Chairman Fuller called for a motion.

**Motion:** Commissioner Woodruff moved for continuance.

Commissioner Conder seconded the motion.

**Roll call vote:**

Commissioner Bilic	Yes
Commissioner Conder	Yes
Commissioner Garcia	No
Commissioner Mills	Yes
Commissioner Thomas	Yes

Commissioner Woodruff	Yes
Chairman Fuller	Yes

**Majority-C-16-2012-Approved**

**PLANNING COMISSION BUSINESS**

Approval of minutes from April 25, 2012 (Regular Meeting) **Approved**  
Approval of minutes from May 2, 2012 (Study Session) **Approved**

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

Respectfully submitted,

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Nichole Camac, Administrative Assistant