
CITY OF NEWARK PLANNING COMMISSION

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City Administration Building
6:00 p.m.
City Council Chambers

MINUTES

Wednesday, July 2, 2014

A. ROLL CALL

At 6:02 p.m., Chairperson Nillo called the Special Meeting to order. All Planning Commissioners were present except Commissioner Aguilar (recused).

B. MINUTES

None.

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

E.1 Hearing to consider whether the Planning Commission should revoke Conditional Use Permit (CUP) No. U-84-14, issued to E-Z 8 Motel, on the grounds that E-Z 8 is not complying with the conditions of the permit and is violating applicable provisions of Title 17 of the City of Newark Municipal Code. (RESCHEDULED FROM MAY 28, 2014)

Assistant City Manager Grindall gave background information and based upon a negotiated agreement with EZ-8 representatives recommends the hearing regarding revocation be continued for six months.

Ms. Anna Roppo with Duckor, Spradling, Metzger & Wynne, 3043 4th Avenue, San Diego, CA 92103, representing E-Z 8 Newark LLC, stated her clients do not waive any of their rights but are attending the meeting to show cooperation in working with the City.

Ms. Roppo presented a PowerPoint presentation, making special note to a slide depicting onsite signage that states E-Z 8 actively participates with the Newark Police Department to discourage illegal activity on their premises.

Ms. Roppo listed E-Z 8's current security measures and the supplemental measures per the Agreement with the City.

Vice-Chairperson Hannon suggested that any future PowerPoint presentations be provided to the Planning Commission prior to the Planning Commission Meetings.

Referencing the PowerPoint slide on the signage, Vice-Chairperson Hannon asked for the number of Newark residents that were evicted from E-Z 8 within the last 12 months. Mr. Ansel Battle, General Manager at the E-Z 8 Motel, 5555 Cedar Court, stated approximately 25-30 people were evicted and added to their "do not rent" list.

Answering Vice-Chairperson Hannon, Mr. Battle stated E-Z 8 needed Police assistance with evicting guests on "an almost daily basis" for a variety of reasons.

Answering Vice-Chairperson Hannon, Mr. Battle described his work experience.

Answering Commissioner Drews, Mr. Battle stated it is a judgment call as to whether or not he or his staff calls for Police assistance.

Answering Vice-Chairperson Hannon, Mr. Battle stated one or two arrests were made per week as a result of sharing their Registry with the Newark Police Department. Ms. Roppo added that some of those were for warrant arrests.

Discussion ensued on security cameras, cooking not being allowed in the motel rooms, and the keeping of the "no rent" list.

Answering Commissioner Bridges, Mr. Battle stated in comparison to other E-Z 8 Motels, the only difference he sees is the security measures at the entry points.

Answering Commissioner Drews, Ms. Roppo clarified what the "no rent" list is.

Mr. Battle stated half of their guests stay for 21 days, vacate the property for 48 hours, then return to rent rooms for another 21 days.

Discussion ensued among Commissioner Otterstetter, Ms. Roppo, and Mr. Battle on what security measures had been implemented and which ones was not yet in place.

Discussion ensued between Vice-Chairperson Hannon and Ms. Roppo on the Public Records Act request that they made to the City.

Discussion ensued between Vice-Chairperson Hannon and ACM Grindall on the process regarding revocation of a Conditional Use Permit. Ms. Roppo stated she and her clients disagree with the revocation.

Answering Commissioner Drews, ACM Grindall stated the 6-month timeframe was negotiated between staff and E-Z 8 and was deemed appropriate to determine if the new practices and procedures are successful.

Answering Vice-Chairperson Hannon, Mr. Lester Crouch, 2 Camino LaVente, Las Vegas, NV, stated the costs associated with employing two security guards was too expensive and believes the security gate is sufficient.

Answering Vice-Chairperson Hannon, Mr. Gannon from San Diego, CA, stated the security gate is only for vehicle access to the property; the repairs to their security systems were made; and they will improve the nighttime acuity of the surveyance cameras per the new Agreement.

Mr. Gannon stated the crime statistics detailing arrests made at their property includes arrest warrants for unknown reasons which occurred elsewhere.

Answering Commissioner Bridges, Mr. Gannon described the clientele that stays for the 21 days and indicated they work with ABODE and church groups to keep families from living inside their vehicles.

Chairperson Nillo opened the Public Hearing.

Unknown Speaker #1 believes the PowerPoint Presentation did not accurately depict what goes on there. She stated her opinion that E-Z 8 is not a good Corporate Neighbor and would like the Conditional Use Permit be revoked at tonight's meeting.

Richard Dominguez, 5647 Moores Avenue, Newark, CA, believes the E-Z 8 Motel is a sore spot for the Community; the Agreement is only a band aid; and he supports revocation of the Use Permit.

Mike Bucchi, 6249 Wilma Avenue, Newark, CA, believes revocation is long overdue and cited incidences of crime and the loss of investors for neighboring businesses due to negative activity he attributes to the E-Z 8 Motel.

Stephanie Jones, 4948 Norwich Place, Newark, CA, questioned why it has taken so long for E-Z 8 to implement security measures. She also stated she would like their Conditional Use Permit revoked.

Tim Jones, 5948 Norwich Place, Newark, CA, questioned why E-Z 8 sequester their employees and wall off their property. Mr. Jones stated the security gate can easily be walked around and the wall is easy to climb over. Mr. Jones suggested drug testing of the E-Z 8 employees and asked why this particular Motel is the cheapest one in their chain.

Mary Florio, 6057 Moores Avenue, Newark, CA, stated her concerns with the type of people and situations she encounters on her walks. She stated she supports revocation of the Use Permit.

Richard Dominguez, 6312 Narcissus Avenue, Newark, CA, described activity involving cars temporarily parked on Moore Avenue and Cedar Boulevard; described activity involving SWAT teams in an incident that occurred in 1984; and described recent arrest activities that he believes involved drugs.

David Blakesley, 36219 Landes Place, Newark, CA, described his observations as a RAVEN Volunteer while parked in his patrol vehicle at the BJ Restaurant parking lot, at Motel 6 and at the E-Z 8 Motel, and stated he believes his presence is a deterrent to crime in those areas.

Newark resident Patty Born, stated her belief that Churches and E-Z 8 should continue their partnership to keep homeless families off of the streets and asked that the City join in the partnership instead of trying to close E-Z 8.

Newark resident Jolie Agusa, stated through her Church she has met a number of families living at the E-Z 8 Motel who are thankful for being able to be a part of the Newark Community. Ms. Agusa also stated that in the 2-3 years that she visited the Motel she personally did not witness and crime or arrests.

Hannah Mills, 35324 Severn Drive, Newark, CA, described her experience helping the families living at E-Z 8 Motel and stated her perspective changed from wanting to avoid them to making them her friends.

Tara Anderson-Mills, 35324 Severn Drive, Newark, CA, stated there is a 3 to 4 month waiting list at ABODE for family shelter and surmised if E-Z 8 Motel closes the displaced families would be living on the streets. Ms. Anderson-Mills believes living at the Motel may be the only affordable option for a safe environment for these families.

Unknown Speaker #2, stated he does not feel safe in his front yard and has witnessed various SWAT activities. He asked that the E-Z 8 Motel be shut down.

Kim Cross, 6257 Wilma Street, Newark, CA, feels the homeless problem is a separate issue. Ms. Cross referenced the Nexel Report and commented that the same crimes are repeatedly being committed at E-Z 8 Motel which in her opinion is not good for businesses nor the Community. Ms. Cross also expressed support for Use Permit revocation.

Sarah Nelson, 5692 Moores Avenue, Newark, CA, described SWAT activities in her neighborhood and indicated support for revocation of the motel's Use Permit.

Dianna Hernandez, E-Z 8 Motel resident, described her circumstance and living environment at E-Z 8 and encouraged the City to look into providing affordable

housing. Ms. Hernandez commented that SWAT activities occurs in neighborhoods, as well as, at the Motel.

Angel Ramirez, E-Z 8 Motel resident, asked where would her family go to live if E-Z 8 is closed. Ms. Ramirez stated there are two family shelters in Alameda County and they have long wait lists. Ms. Ramirez invited City staff to visit her room to see first-hand how they live and how they get along with the other families living there.

Newark resident Sorri Hedges, stated her concerns with the stress and strain placed upon the Newark Police Officers; questioned Mr. Battle's procedure of when he decides to notify the Police; wants to see the analysis of the crime statistics; and wondered where E-Z 8's financial funding comes from. Ms. Hedges submitted a written statement signed by her neighbors to the Planning Commission.

Answering Newark resident Glen Nelson, Ms. Roppo replied she stays at E-Z 8 Motel when she is in town.

Commissioner Otterstetter read three emails that she received from citizens unable to attend tonight's meeting:

- 1) Vivian Larsen believes E-Z 8 Motel is detrimental to the City by bringing in crime, draining Police resources, and tarnishing the City's image.
- 2) Judy Melburg believes the threat to public safety outweighs the loss of jobs at E-Z 8 and wants to see their permit revoked.
- 3) Mark Hilton believes the lack of proper leadership and management resulted in the decline of the motel and feels for the betterment of Newark it is time to revoke their permit.

Chairperson Nillo closed the Public Hearing.

Contract City Attorney Samantha Zutler addressed Vice-Chairperson Hannon's earlier concern on the timeliness of the City's response to the Public Records Act request by stating the City has consistently responded per Statute.

Police Commander Mike Carroll believes the arrest rate associated with E-Z 8 Motel has not changed in the past 23 years but has remained consistently high.

Commander Carroll stated the Police Department makes a concerted effort to show a Police presence at E-Z 8 Motel to deter criminal activity and stated possible security measures to reduce crime (i.e. employing two security guards, raising room rates and raising the age limit for renting rooms).

Police Sergeant Jeff Mapes, stated although the arrest warrants discovered through the registry search were for activity committed elsewhere, subsequent investigation reveals additional criminal activity had taken place at or near E-Z 8's property.

Answering Vice-Chairperson Hannon, ACM Grindall replied the City has not charged businesses for the cost associated with providing extra Police services, but a newly adopted Ordinance would allow the City to do so in the future.

Vice-Chairperson Hannon requested staff to look into having all Newark Hotels and Motels pay a percentage of the Police Liaison's salary.

Discussion ensued between Vice-Chairperson Hannon and ACM Grindall on the Transient Occupancy Tax.

Answering Commissioner Drews, Sergeant Mapes stated the proposed security cameras at E-Z 8 Motel had not been installed yet.

Commissioner Drews stated she is in favor of having two security guards employed by E-Z 8.

Answering Chairperson Nillo, Sergeant Mapes stated camera footage is recorded onto a DVR system which the Police Department is able to view with Mr. Battle's permission.

Answering Vice-Chairperson Hannon, Commander Carroll stated remote access to the video footage is an excellent idea but it did not come up in discussions with E-Z 8.

Mr. Roppo stated the request by Vice-Chairperson Hannon to modify the executed Agreement during the Planning Commission Meeting was unorthodox.

Planning Commission Attorney Judith Robbins, stated the actions that the Planning Commission could take are:

1. Grant the 6-month continuance of the Public Hearing; or
2. Not accept the recommended continuance and allow E-Z 8 Motel the time to return to another Public Hearing with their record; whereby the City staff would prepare a Resolution to revoke or modify the Use Permit.

Vice-Chairperson Hannon suggested the following changes to the Agreement for Planning Commission concurrence:

1. Increase the age for renting rooms to 21
2. Increase the number of security guards from 1 to 2
3. Change the wording "upon reasonable request" in Item B5 to "within 24 hours"
4. Add a new condition to have remote access to the camera footage available to the Police Department
5. Give a copy of the wording on their signage to all guests in English, Vietnamese and Spanish
6. Shorten timeframe in Item 8 to 10 days
7. Give the security advisor's name to the Police Department
8. Change Item 3 on the last page of the agreement to be "on an as needed basis"

Commissioner Fitts would like the timeframe to install the gate and security cameras reduced so the Planning Commission could have a longer period of time to see if these measures are effective.

Commissioner Bridges suggested having the hours increased for the one security guard.

Commissioner Otterstetter would like to see two security guards onsite until the new gate is installed.

ACM Grindall stated his belief that the Planning Commission had reached a consensus and is requesting that staff renegotiate the Security Agreement.

ACM Grindall suggested the Planning Commission continue this Public Hearing for 6 months with the condition the City and E-Z 8 renegotiate the Security Agreement and if they cannot come to terms on a new Agreement this item will return to the Planning Commission within 30 days with a Resolution prepared to revoke the Use Permit.

Commissioner Fitts stated two separate issues were brought up at tonight's meeting: 1) the neighbors feeling unsafe; and 2) the lack of affordable housing or shelters for homeless families.

Commissioner Drews stated she was in favor of shortening the timeframe to install the gate and cameras.

Commissioner Bridges commented that there is a significant cost associated with providing extra Police services, but the closing of a business is an extreme measure. Commissioner Bridges stated she is in favor to the 6-month continuance with the minor changes to the Security Agreement.

Chairperson Nillo stated he was in favor of the continuance and stresses the safety and quality of life for Newark residents is extremely important but feels the closing of the business would be detrimental to everyone.

Chairperson Nillo encouraged E-Z 8 to work on improving their reputation among the Community.

Motion made by Commissioner Bridges, seconded by Commissioner Fitts to continue this hearing regarding revocation of conditional use permit U-84-18 to the January 7, 2015 Planning Commission meeting with the condition that within 30 days staff would renegotiate the Security Agreement to amend it as follows: Change the age to register to 21; have remote access to camera footage available to the Newark Police Department; have two security guards employed until the new gate is installed then reduce the number to one; reduce the timeframe for installation of the cameras and the gate; and if the negotiations are unsuccessful revocation proceedings would be brought before the Planning Commission. Motion passed 6 AYES, 1 RECUSAL (Aguilar).

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

None.

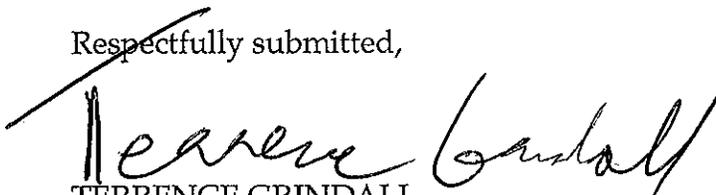
Commissioners' Comments

Chairperson Nillo wished everyone a Happy and Safe Fourth of July.

H. ADJOURNMENT

At 9:27 p.m., Chairperson Nillo adjourned the Special Planning Commission meeting of Wednesday 2, 2014.

Respectfully submitted,


TERRENCE GRINDALL
Secretary