



**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 03/14/00  
AGENDA ITEM 9  
WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** Review of Use Permit No. 96-160-17 – Mission Paradise Bar and Grill and Banquet Hall, Shahpur and Gulalai Rahimi (Business Owner), Toro Development (Property Owner) – The Site is Located at 31113/31115 Mission Boulevard (Fairway Park Shopping Center), in a CN (Neighborhood Commercial) Zoning District

**RECOMMEDATION:**

It is recommended that the City Council accept this status report.

**BACKGROUND:**

At its July 11, 1996, meeting, the Planning Commission approved Conditional Use Permit 96-160-17 to allow the Mission Paradise Banquet Hall to expand their existing alcohol license to include serving customers in the adjacent bar, which had been vacant. Conditions of approval limited when music and entertainment could take place in the banquet facilities and required that back doors facing the residential units remain closed during music and entertainment activities. See Area Map (Exhibit A) for the bar and grill and banquet hall location within the Fairway Park Shopping Center.

On September 10, 1996, the City Council considered an appeal of the Planning Commission's approval of Conditional Use Permit 96-160-17 by the applicants Shahpur and Gulalai Rahimi. The appeal was of condition No. 19 relating to restrictions on the hours music and entertainment were permitted in the banquet hall.

The City Council approved the appeal by modifying condition No. 19 to allow extended hours of operation of music and entertainment activity as follows:

19. This facility shall cease all music and entertainment activity by 12:00 AM midnight Sunday through Thursday and by 2:00 AM on Friday and Saturday nights.

The Council required a review of the operation in one year. Although the matter was not brought back after the one-year period, there has been continual City staff monitoring,

communication with the business operators, shopping center owner and neighborhood organizations and individuals. Because of the unusually high level of development in the past two years, the staff accorded this review a lower priority as long as the applicant continued to meet the conditions of approval.

Since the City Council approval of the Conditional Use Permit for the Mission Paradise Bar and Grill and Banquet Hall in 1996, the City staff has monitored the business with regard to meeting conditions. In the period of December 1997 through September 1998, there were six calls for police service that could be attributed to the bar. Two of these calls related to a person being drunk in public, one call was for juveniles dancing in the bar area, one for an unwanted guest, one for vandalism, and one for a suspicious person. In the period from January 1999 to December 1999, there were ten calls for police service. Eight calls were for alcohol-related disturbances, one was for assault and battery, and one was for prostitution. Although police calls may be directly attributed to the bar, there have been fewer incidents reported by neighbors being bothered by noise or other disturbances in the parking lot that backs up to a residential development.

Currently the bar area is temporarily closed as the business owners are in the process of remodeling that area. According to the business owner, the size of the actual serving bar has been cut in half and relocated, liquor bottles will be placed below the bar where not visible to patrons, the pool table has been removed, and both lunch and dinner will be served in the bar area (American and Afghan cuisine).

Notice was provided to the Fairway Park Neighborhood Task Force members, Fairway Park Neighborhood Association and neighboring property owners and residents. It was stressed that this was a Council review and not a public hearing on the conditional use permit. A response was received from Margaret-Mary Bauer who objected to continuing the bar operation. (See Exhibit C.)

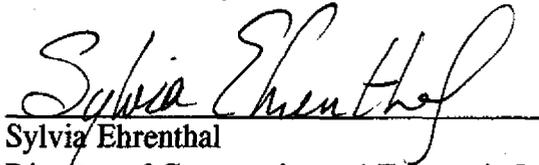
Staff believes that business owners have demonstrated a willingness and capability of compliance with the conditions of approval. Should the owners fail to comply with the conditions in the future, the Planning Director has the discretion to refer the matter to the Planning Commission for review with the possibility of revocation of the conditional use permit.

Prepared by:



Dyana Anderly, AICP  
Planning Manager

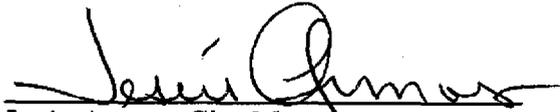
Recommended by:



Sylvia Ehrental

Director of Community and Economic Development

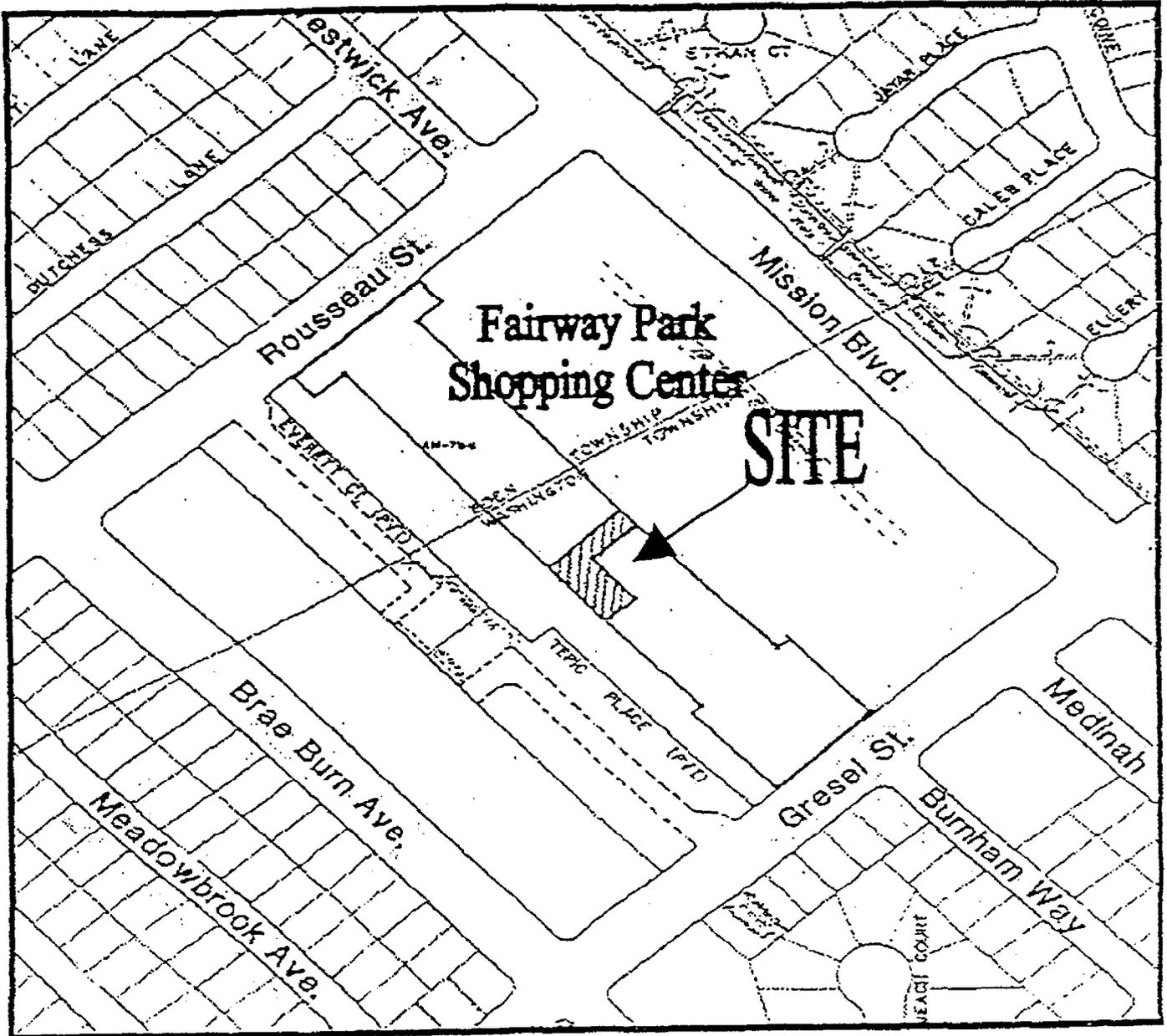
Approved by:



Jesús Armas, City Manager

Attachments: Exhibit A - Area Map  
Exhibit B - City Council Minutes, Sept. 10, 1996  
Exhibit C - Correspondence dated 2/23/00

3.09.00



Area Map for 31113/31115 Mission Blvd.

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AYES: Council Members Jimenez, Hilson,  
Rodriquez, Hulteen, Henson  
Mayor Cooper  
NOES: Council Member Ward  
ABSENT: None  
ABSTAINED: None

Resolution 96-183, "Resolution Denying Variance  
Application No. 96-180-09 of Patrick Lee"

8. Use Permit 96-160-17 (Mission Paradise Banquet Hall) - Shahpur and Gulalai Rahimi (Applicants), Toro Development Company (Owner) - Appeal of condition relating to restrictions on hours of operation of music and entertainment at Mission Paradise Bar and Grill, 31113 & 31115 Mission Boulevard

Staff report submitted by Associate Planner Mullen dated July 2, 1996 was filed.

Associate Planner Mullen made the staff presentation, using slides indicating the floor plan of the banquet hall and reported that staff is recommending denial of this application. Condition No. 19 of the use permit is being appealed by the applicant to extend the hours of operation of the bar and grill. The Planning Commission approved the request and amended this condition to allow one additional hour of entertainment and required the applicant to keep the doors closed during this period so not to impact the adjacent neighbors.

Discussion ensued regarding security, alcohol licensing procedures, the distance between the business and the condominiums relating to noise, the number of past nuisance complaints and similarity of conditions placed on other halls, including Centennial Hall.

Captain Power spoke on behalf of the owners, noting that they have made efforts to mitigate neighborhood issues and to create a balance to protect both the neighborhood and those patronizing the bar and grill. This responsibility may decrease public calls in the future.

Mayor Cooper opened the public hearing at 9:53 p.m.

Mayor Cooper read a letter submitted by Cathaleen Hampton, 31214 Tepic Place, a resident in the neighboring townhouses that expressed her opposition to this request due to the noise disturbances at the rear of the building nearest her home.

Mayor Cooper indicated that Council has received correspondence from Holly Rogers and William Weller, representatives of their home association against the appeal.

Tracy Cobb, manager of the Mission Paradise Banquet Hall, spoke on behalf of the applicants. She commented that adjusting hours would be a serious issue for the operation of this business and could cause a breach of contract for those with reservations. She added that the banquet hall has reservations through September of 1998. In response to a comment made by staff, Ms. Cobb pointed out that Elks Hall should not be compared to Mission Paradise. She explained the combination of the on-sale alcohol licenses and the merger of the two businesses since the previous tenants were evicted. She pointed out that she initially offered to add the condition to keep doors closed. Hall security staff have both visual and auditory hearing when policing the breezeway. The four rear doors are used as fire doors only and

## MINUTES

REGULAR MEETING OF THE CITY COUNCIL,  
CITY OF HAYWARD, Centennial Hall, Room 6  
Tuesday, September 10, 1996, 8:00 p.m.  
22292 Foothill Boulevard, Hayward, CA 94541

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are considered functionless except as a fire escape. She has undertaken the responsibility of doing everything possible to mitigate problems with neighboring residents. She indicated that she was not aware of the situation that was described in the letter read by Mayor Cooper.

Council Member Rodriguez commented that noise is the biggest citywide problem. She confirmed that the condominiums were developed after the business, but it seemed that Mission Paradise was being considerate about noise issues with the neighborhood. She commended the facility improvements and encouraged continued efforts to satisfy neighborhood issues. She made a precautionary note that when a home is purchased adjacent to a business, there is accompanying noise.

George Mitroff, attorney on behalf of the applicant, 22744 Main Street, apprised the Council to keep in mind the original permit application and deliberate on the proactive measures have been taken by applicant.

Yvonne Critzer, manager of Fairway Park Shopping Center, 31123 Mission Blvd., commented that there are unleashed dogs that roam the neighborhood, including the shopping center, that could be the cause of disturbances as described in the letter read by Mayor Cooper. She supported approval of the owner's request to allow entertainment to continue beyond the recommendation. This business is an improvement from previous businesses and provides excellent service to its customers. The only complaints that she is aware of have to do with the dumpsters.

Scott Raty, representing the Chamber of Commerce, described his personal experience with this business. He has held several noontime functions and found it to be an adequate banquet facility with excellent decor and interior improvements. The owners are responsive to their customers and have an owner-operator on site. He asked for fairness in this appeal.

Mayor Cooper closed the public hearing at 10:20 p.m.

Council Member Henson summarized that ideally he would have preferred that the applicant resolve outstanding issues with the neighbors prior to the public hearing, however since the Police Department report shows a decrease in police activity, he moved to approve the appeal relating to the hours of operation of this business.

Council Member Jimenez did not want to restrict their competitiveness and seconded the motion. He also offered a "friendly amendment" to amend Condition No. 19 that extends the hours of entertainment activity to 12 midnight from Sunday through Thursday and to 2 a.m. on Friday and Saturday nights. He reiterated that Condition No. 26 should be included. Council Member Henson accepted the "friendly amendment."

Council Member Ward felt it was not unreasonable to support the appeal. The conditions have changed for the benefit of the neighborhood as well as the shopping center. He wanted assurance from both planning and police staff that no activity will occur in the rear of the business, that doors should be kept closed, and that there is adequate staff to address the issue of noise emitting from the rear of the business. He concurred with the maker of the motion that there should be outreach with the neighborhood.

Council Member Hilson stated that there is the ability under any use permit to call it up for review. He

asked the maker of the motion to add another "friendly amendment" that this use permit return for a review in a year. Council Member Henson accepted this additional condition and Council Member Jimenez, the second to the motion, also agreed to the one year review.

Council Member Hulteen concurred with the one year review and gave his experience and comments regarding the justification for modifying the hours of operation for the benefit of the business.

It was moved by Council Member Henson, seconded by Council Member Jimenez and unanimously carried by all present to approve the modification and the appeal with two friendly amendments.

Resolution 96-184, "Resolution Approving Appeal of Modification of Condition of Approval No. 19 of Use Permit Application No. 96-160-17 of Shahpur and Gulalai Rahimi (Applicants), Toro Development Company (Owner) and Adding Condition No. 27"

### **COUNCIL REPORTS**

There were no Council Reports.

### **ADJOURNMENT**

The meeting was adjourned at 10:29 p.m. by Mayor Cooper.

### **APPROVED:**

\_\_\_\_\_  
Roberta Cooper, Mayor,  
City of Hayward

### **ATTEST:**

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Angelina Reyes, City Clerk,  
City of Hayward

**From:** <CMBauer97@aol.com>  
**To:** COHD.CED(PhilB)  
**Date:** Wed, Feb 23, 2000 9:11 PM  
**Subject:** Follow up review of use permit for Mission Bar and Grille

**EXHIBIT C**

Mr. Block, thank you for the opportunity to comment on the referenced issue.

About 3 years ago the Mission Paradise Banquet Hall applied to get a liquor permit from the city for the bar and grille. The Fairway Park Neighborhoods Assoc. and many other community members opposed it until they explained that what they intended was to make a restaurant out of the place and just needed to have the liquor license to go with it. Well, they dressed it up as a restaurant for about 4 months. Next thing you know the menu was gone, then an adult only sign was put up, the tables were removed and pool tables were put in. They lied. A year ago the liquor permit was up for review. The Fairway Park Neighborhood Assoc. took a survey of it's members regarding what they would like to see happen with the bar and grille. All but one response wanted it to be the promised sit-down restaurant and not a full-time bar. Limited serving hours of hard liquor was also highly supported. This information was submitted to the city and it took no notice.

The owners recommitted to turning it back into a restaurant nearly 1/2 a year ago. They said it would open in January. As you can see by walking by it, nothing has happened. The last time they were up for a review they closed the bar "for renovations" until they got their renewal. I now believe that it was a ploy to avoid any police calls and reports on their establishment before the review.

I don't like what I see there or how the owners have misrepresented themselves to the community. I strongly urge the denial of the use permit.

Sincerely,  
Margaret-Mary Bauer

CC: COHD.CED(DyanaA), COHD.CM(JesusA)