

Planning Commission Minutes
Regular Meeting
January 7, 2014
Martinez, CA

CALL TO ORDER

Chair Rachael Ford called the meeting to order at 7:05 p.m. with all members present except Vice Chair Sigrid Waggener, who was excused, and Alternate James Blair.

ROLL CALL

PRESENT: Chair Rachael Ford, Commissioner Donna Allen, Commissioner Dwayne Glemser, Commissioner Kimberley Glover, Commissioner Jeffrey Keller, and Commissioner Paul Kelly.
EXCUSED: Vice Chair Sigrid Waggener.
ABSENT: Alternate James Blair.

Staff present: Assistant City Attorney Veronica Nebb, Police Chief Gary Peterson, Senior Planner Corey Simon

AGENDA CHANGES

None

PUBLIC COMMENT

None

CONSENT ITEMS

None

REGULAR ITEMS

1. *Regulations of Bars as Conditional Uses in C-Commercial Districts Continued public hearing to review proposed zoning text amendments to the Martinez Municipal Code that address the establishment of Bars as Conditionally Permitted Uses with the C - Commercial Zoning Districts (MMC 22.16.080.D). Proposed changes would establish a definition of "Bar" that would generally distinguish such a business - as opposed to a restaurant - as being where alcoholic beverages are sold for on-site consumption, with either no or limited food service; and adopt: a) additional standards and criteria for approval of Use Permits and b) establish requirements for business management, training of alcoholic beverage serving staff. The proposed ordinance would also repeal the existing interim urgency ordinance affecting Bars in the Downtown. The Commission will also consider finding that the proposed zoning text amendment is categorically exempt*

from the requirements of CEQA pursuant to CEQA Guidelines Sections 15061 (b)(3) and 15305. The Planning Commission will make its recommendations to the City Council, which will consider the proposed CEQA determination and possible amendments at a future date to be announced. [ITEM CONTINUED FROM SPECIAL MEETING OF JANUARY 2, 2014].

Applicant: City of Martinez (CS/GP)

Staff Report & Attachments

Senior Planner Corey Simon presented the staff report, briefly discussing changes made in response to input from the Commission at the last meeting on January 2, 2014 - including removing the hours of operation, percentage of time the restaurant is open, provision to allow the Zoning Administrator to approve applications in some cases, and updated definitions. Senior City Attorney Veronica Nebb provided some clarification as to how restaurant establishments that only want to serve beer and wine would be handled, adding that they will not require a use permit.

Staff responded to questions from Commissioner Glover regarding the training requirement and analysis done by staff to determine the best approach. They also discussed with the Commission issues of concern to the Police Department, enforcement measures, how the use permit application process would differ for different types of establishments, potential "unintended consequences" of the changes, whether the focus should be on the definition of a bar rather than the definition of a restaurant, and how other jurisdictions have regulated bars that offer food service. Commissioners expressed concern about whether the proposed ordinance was the best approach to resolve the issues, whether the new regulations might discourage new businesses from coming to Martinez, and the need for the language to be clear and not subject to interpretation. Staff explained that the goal was to make this ordinance consistent with the language and process for obtaining a liquor license. Ms. Nebb also clarified that if the Commission wants to make different recommendations to the Council, they were free to do so, and staff would be happy to carry that recommendation forward.

Commissioner Allen questioned why the provision related to signage says it must be "consistent with the neighborhood character", rather than referencing the City's sign ordinance instead. Chair Ford expressed concern that the meeting not devolve into a contentious situation between staff and the Commission. She questioned what direction the Council had given staff regarding the type of ordinance they wanted, why the sudden urgency of the matter, and why the downtown businesses were not invited to give input in the process.

Chair Ford opened the public hearing.

John Stevens, Martinez Chamber of Commerce, discussed a letter he had written and presented to the Commission today, regarding a survey of the Chamber membership related to the proposed ordinance. He noted that many of their concerns were based on misconceptions, and he will be glad to pass corrected information on to the members. He added that some are concerned about an added level of reporting on gross receipts beyond what they already have to do.

Another speaker indicated that anyone can come in and request to see receipts of their business, from the IRS to the insurance company to ABC. He added that they are more likely to look at the purchase history under the seller's permit contract, however. He also noted that liquor licenses correlate with the business, not with the property - if a business chooses to relocate or expand, that would trigger the new requirements. He indicated his greatest concern is with public safety, and if the new ordinance can improve public safety, he would support it. He suggested that the criteria for differentiating between restaurant and bar should be based on menu evaluation rather than menu preparation. He thought it would be better to base the stricter requirements on whether hard liquor is served or just beer and wine.

Seeing no further speakers, Chair Ford closed the public hearing.

Commissioner Kelly stated that in his line of work, what constitutes a restaurant is a full commercial kitchen.

Commissioner Glover acknowledged the need for some additional regulations, but she wasn't sure how much was appropriate. She apologized for missing the earlier hearing on the item.

Commissioner Glemser said he couldn't support the ordinance as written because of his work with the Chamber. He recognized that many of their concerns were based on wrong information - if given more time to review and explain to the Chamber, he would feel more comfortable supporting the staff recommendation.

Commissioner Keller said he thought the ordinance was moving in the right direction, but he was not sure that the current format will accomplish the intended goals. He was concerned that some of the provisions still seem confusing.

Commissioner Kelly noted that he doesn't want to do anything that would discourage new businesses from coming to Martinez, but he acknowledged the need for more safeguards because of public safety issues. He expressed preference for extending the moratorium to give the Commission more time to fully consider all aspects.

Commissioner Allen said she was grateful to staff for reaching out to the Chamber for input. She agreed with Commissioner Kelly and Chair Ford that the type of kitchen in an establishment might be a better criteria than size or percentage of sales. She also thought that beer/wine sales shouldn't require a use permit but distilled spirits should, regardless of percentage of sales, hours, etc. She questioned why the Commission was only involved in the process in the last few weeks when the moratorium has been in effect since July 2013. She would rather see the Council extend the moratorium to allow ample time for the Commission to consider it. She asked why the section on bed-and-breakfast regulations was included, and staff explained that section was not being changed - it was included to keep the alphabetical order.

Ms. Nebb indicated it would be possible for the Commission to make a negative recommendation on the ordinance and ask the Council to extend the moratorium if that was agreeable to the majority. Chair Ford asked how the Council might respond if the Commission did that, and Ms. Nebb discussed the different possibilities.

Chair Ford agreed with Commissioner Allen that it would be easier to define "bar" than trying to specify what it is not. Ms. Nebb cautioned that without defining some of what a bar is not, it would broaden the definition more than narrow it.

Commissioner Glemser asked what happens to new applications that come in during the moratorium, which staff discussed and comparisons were made as to how a change or expansion of use would be handled under the moratorium and under the existing ordinance and the proposed regulations. There was further discussion between the Commission and staff regarding possible action that the Commission could take and how each would impact existing establishments, change of ownership, expansion of use and new applications.

Chair Ford questioned why there was nothing in the ordinance regarding public safety when the level of crime and number of service calls were cited as the reason for the moratorium and the proposed changes. She also asked who usually initiates the calls for police assistance, which Chief Peterson reviewed. Chair Ford said she thought there should be consequences for businesses that serve alcohol to people but then call the police to deal with alcohol-related incidents. She thought that establishing controls in that aspect would be more helpful than defining what a bar is or is not.

Mr. Simon asked Chief Peterson what he thought about delineating between beer/wine sales and hard liquor sales. Chief Peterson said he had no problem with beer/wine sales with or without food; most of the problems have been with establishments that serve hard liquor.

Commissioner Allen asked whether there is a specific timeframe that would apply if the Council extends the moratorium. Ms. Nebb said any amount up to 18 months more.

Chair Ford polled the Commission as to whether they preferred to change some of the provisions in the proposed ordinance or to recommend denial and ask the Council to extend the moratorium. By a vote of 4:2, the preference was to continue to find consensus on changes to the proposed regulations.

Based on input from the Commission, Ms. Nebb proposed revised language for the definition of a bar, and the full Commission present indicated their acceptance.

Ms. Nebb also reviewed changes to the section of the ordinance that specifies what a full-service bar must do to obtain a conditional use permit, signage, training requirements, nonconforming uses, and additional permitted uses in the Commercial District, to which the Commission also agreed.

The Commission recessed for five minutes to allow staff time to consider other sections of the code that might need to be changed to ensure consistency throughout, and reconvened with all members present as indicated.

Ms. Nebb proposed an expanded definition of restaurant to include sandwich shop, cafe wine

tasting room, beer garden, etc., which the Commission also accepted.

On motion by Commissioner Donna Allen, seconded by Commissioner Paul Kelly, adopt the Resolution, including amendments to the proposed ordinance as discussed by the Commission Motion unanimously passed 7 - 0. Yes: Chair Rachael Ford Commissioner Donna Allen Commissioner Dwayne Glemser Commissioner Kimberley Glover Commissioner Jeffrey Keller Commissioner Paul Kelly, Alternate James Blair.

COMMISSION ITEMS

None

STAFF ITEMS

The next meeting date was confirmed to be January 21, 2014.

COMMUNICATIONS

None

Chair Ford adjourned the meeting at 9:00 p.m., to the next Regular Planning Commission meeting, January 21, 2014, at 7:00 p.m., in the City Council Chambers.

Respectfully Submitted

Approved by the Planning Commission
Chairperson

Mary Hougey

Rachael Ford