

REGULAR MEETING
OF THE PLANNING COMMISSION
CITY OF CULVER CITY,
CALIFORNIA

June 10, 2009
6:00 p.m.

Call to Order & Roll Call

The meeting of the Planning Commission was called to order
at 6:38 p.m.

Present: David Rockwell, Chair
Anthony Pleskow, Commissioner
Linda Smith Frost, Commissioner
Linda Shahinian, Commissioner

Absent: John Kuechle, Vice Chair (recused)

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Invocation/Pledge of Allegiance

Thomas Gorham, Planning Manager, led the Pledge of
Allegiance.

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Comments for Items NOT on the Agenda

None.

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PUBLIC HEARING

Item PH-1

**Consideration of the Hearing Officer's Recommendation
Concerning the Revocation/Modification of the Business Tax
Certificate and the Conditions of Approval to Operate a
Home Occupation known as Canine Aquatics at the Location of
11815 Atlantic Avenue**

Chair Rockwell explained procedures for the hearing.

Thomas Gorham, Planning Manager, provided a summary of the
material of record.

Chair Rockwell received clarification regarding training and qualifications of the hearing officer.

MOVED BY COMMISSIONER SMITH FROST, SECONDED BY COMMISSIONER SHAHINIAN AND UNANIMOUSLY CARRIED (ABSENT RECUSED VICE CHAIR KUECHLE) TO OPEN THE PUBLIC HEARING.

Greg Palmer, City representative, emphasized points made by the hearing officer regarding witness credibility and discussed: ambient noise vs. noise made by the business; warning letters about noise issues; acknowledgement of noise issues by visitors and other neighbors; the difference between reading transcripts of the hearing and witnessing the testimony; repeated violations of conditions; the acoustic expert and analysis; Ms. Schatz' 'epiphany moment'; videotapes placed into evidence and how many were viewed by Ms. Schatz; the lack of response by Ms. Schatz to recommendations to mitigate noise issues and her overall attitude; limiting the topic of speech during therapy sessions; the fact that Ms. Schatz is no longer able to go into the pool; assistants' knowledge of the conditions; squeaky toys; concern that Ms. Schatz does not recognize that her business has violated rules; the great benefit to handicapped dogs in the community but the negative effect on the neighbors; next steps in the process; and the process for finding the Hearing Officer.

Mr. Palmer requested revocation citing the time, money and energy wasted on a fine business at the wrong location.

Robert Newman, representing Ms. Schatz, reported that the hearing officer had been fair, reasonable and respectful and he discussed: the 'epiphany tape'; the fact that the tapes illustrate that dog barking has been reduced; acknowledgement by Ms. Schatz of the problem; the difficulty of viewing the videotapes; the fact that before any water was put in the pool Ms. Jue indicated her intent to ensure that the business did not succeed; the fact that the City received complaints before the business even opened; the intrusiveness of daily videotaping; an unrelated civil lawsuit regarding the violation of privacy; explanations regarding violated conditions; the 15-minute rule; the three recommendations of the hearing officer; the pool filter; acoustic treatment; proximity of the properties; landscaping to mitigate the noise; actions taken to placate the complainant; the commitment of Ms. Schatz to solving the issues; the constant scrutiny;

Hearing Officer acknowledgment of the value of the business to the City; the fact that the client has scaled back her business; a suggestion that less restrictive means are possible; admissions by the complainants that there are times that the business has operated at a quiet level; the breakdown in communication between the neighbors; City visits and inspections to the property; a suggestion by the Hearing Officer to modify the business tax certificate; client and assistant knowledge of conditions; the fact that Mr. Palmer prepped his witnesses; the lack of complaints from other neighbors; concern with revocation after the investment of time, energy, effort and finances in an effort to please neighbors who don't want a business there; a suggestion to modify hours and increase the length of time between visits; disagreement with imposing the acoustics condition; free speech and the request to limit the content of conversation; imposing reasonable modifications that the client will comply with; clarification that the license can be immediately revoked if there is non-compliance; clarification that the Hearing Officer did not indicate that revocation was the only answer; and a suggestion by the Hearing Officer to establish a liaison with the City.

Mr. Newman urged the Commission to modify the business tax certificate as they felt appropriate.

Chair Rockwell invited speakers.

Wally Hawk noted that Canine Aquatics was located in an R-1 area, not a business area and he expressed concern with traffic and parking.

Vincent D'Onofrio and Sally Jue provided a joint statement noting that they are self-employed and work from their home which is 10-feet from the business.

Sally Jue summarized the impact of the business on their lives; clarified that no one else is as close to the business as they are; reported on time spent documenting the situation, legal fees, lost wages and medical treatment; she addressed invasion of privacy issues; discussed costs and the process for the other lawsuit; noted that noise violations continued periodically after the hearing; reported on calls to code enforcement and their ineffectiveness; clarified that videotaping was done to provide proof to code enforcement; stated that the

Hearing Officer report acknowledged ongoing violations; and she requested a permanent solution.

Chair Rockwell received clarification that the same microphone and camera were used for the recordings on April 9, 2006 and April 18, 2009 and that no processing was done to the tape.

Responding to Chair Rockwell, Ms. Jue expressed willingness to try the Hearing Officer's suggestions and Mr. D'Onofrio indicated that they were in such close proximity that he was not sure if the proposed mitigations would solve the issue.

Alan Corlin reported living two houses away and not speaking with anyone about the issue; he indicated that that the business did not affect him; he expressed frustration that the City had spent so much money trying to resolve the issue; felt the business should not have been allowed in the first place; and he expressed concern with clients who do not pick up after their dogs.

Chair Rockwell called a brief recess from 8:31 p.m. to 8:44 p.m.

Greg Palmer rebutted issues raised and discussed several points including: logs kept by the complainant; the social value of the business; meeting with witnesses and preparing them for testimony; clarification that not all witnesses were friends; Ms. Schatz' original investment in her business and additional costs to address issues; a feeling that suggested conditions were unworkable; issues with clients who do not pick up after their dogs; and whether Ms. Schatz had read and understood the Hearing Officer's decision.

Robert Newman responded to comments and discussed: cleanliness of the property; impacts to parking and traffic in the area; no violations with regard to hygiene issues or clients picking up after their dogs; the logs and being afforded a chance to go over them before responding; a suggestion to require a modification that no squeaky toys are allowed; the fact that Ms. Schatz is not comfortable speaking in public and clarification that she read the Hearing Officer's recommendation; Mr. D'Onofrio's comments and reasonable expectations living in a densely populated city; imposing a condition to eliminate talking during

treatment; complaints by Mr. D'Onofrio to other neighbors; an expectation when the permit was granted that there would be a certain amount of noise; and clarification that the noise takes place during business hours.

Mr. Newman urged modification rather than revocation noting the many concessions made by his client and he suggested the Commission modify the permit appropriately.

Discussion between the Council and speakers included: the recommended conditions of approval; abiding by reasonable restrictions imposed; the proposed sound treatments; using a less expensive company for sound attenuation; the specific reason the business is done from home; clarification regarding City visits to the property but no visits to the neighbor's property; and a request that Ms. Schatz respond to the two questions posed by the Hearing Officer.

Stephanie Schatz, Canine Aquatics, recognized that the business had violated conditions on a couple of occasions and she acknowledged the importance of eliminating the noise.

Additional discussion between the Commission and speakers included: acceptance by Ms. Schatz of the three suggestions of the Hearing Officer; how much time she actually works in the pool area with the dogs; a suggestion to limit the hours; the length of time Mr. Newman has represented Ms. Schatz; when he realized that the noise issue was legitimate; the 'epiphany video'; changes Ms. Schatz made as result of the videotape and changes made to protect her privacy; posted signs in the yard reading 'No Talking' and 'Keep the Noise Down'; the process for revocation if violations are found; Ms. Schatz's plan to conduct business without going into the pool; clarification that the condition runs with the use permit; acceptance of sound attenuation suggestions; and suggestions to abate noises and issues.

MOVED BY COMMISSIONER SHAHINIAN, SECONDED BY COMMISSIONER SMITH FROST, AND UNANIMOUSLY CARRIED (ABSENT RECUSED VICE CHAIR KUECHLE) TO CLOSE THE PUBLIC HEARING.

Discussion between the Commission and the staff included: City codes and R-1 zoning; violations to the conditions by the business; issues with the assistants not knowing the

rules; disagreement with the City granting the permit; concern with a pattern of disregard for the rules; evidence of Ms. Schatz's unwillingness to change; the amount of money expended by the City; commendation for the Hearing Officer; a belief that Ms. Schatz does not recognize the nuisance she created; no guarantees that the acoustic treatment would address the nuisance issue; the Hearing Officer's belief that proposed mitigations were insufficient; multiple exceptions to the zoning code; the business gaining at the expense of the neighbors; tapes pivotal in the case; whether the complainant has been out to stop the business from the start; clarification that a special privilege was granted from the City but conditions were violated; the inappropriateness of the location; and the lack of a good faith effort on the part of Ms. Schatz.

MOVED BY COMMISSIONER SMITH FROST, SECONDED BY COMMISSIONER PLESKOW, AND UNANIMOUSLY CARRIED (ABSENT RECUSED VICE CHAIR KUECHLE) THAT THE PLANNING COMMISSION RECOMMEND REVOCATION OF THE BUSINESS TAX CERTIFICATE AND CONDITIONS OF APPROVAL ISSUED TO STEPHANIE SCHATZ FOR THE HOME OCCUPATION KNOWN AS CANINE AQUATICS AT THE LOCATION OF 11815 ATLANTIC AVENUE AND DIRECT LEGAL COUNSEL TO PREPARE WRITTEN FINDINGS AND RETURN WITH A RESOLUTION REFLECTING THE COMMISSION'S DECISION.

Staff and the Commission discussed next steps in the process and the ability of the Commission to suspend operations.

Thomas Gorham, Planning Manager, received clarification that Commissioners would be available for a special meeting on June 30 when the resolution comes back and the appeal period starts.

The Commission discussed suspending operations and the adoption of the resolution.

MOVED BY COMMISSIONER PLESKOW, SECONDED BY COMMISSIONER SMITH FROST, AND UNANIMOUSLY CARRIED (ABSENT RECUSED VICE CHAIR KUECHLE) THAT THE PERMIT SHALL BE EITHER SUSPENDED OR REVOKED AS OF JUNE 30, 2009, IF A RESOLUTION IS COMPLETE AND IF A RESOLUTION IS NOT PREPARED BY JUNE 30, 2009, THE PERMIT SHALL BE SUSPENDED PURSUANT TO CODE SECTION 17.66.0020 AS OF JUNE 30, 2009.

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Consent Calendar

Item C-1

Secretary's Report

Thomas Gorham, Planning Manager, suggested holding the item to the next meeting.

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Item C-2

Meeting Minutes

Thomas Gorham, Planning Manager, suggesting holding the minutes until the next meeting.

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Items from Staff

Thomas Gorham, Planning Manager, provided a preview of upcoming issues to be considered by the Planning Commission. He also reported that the 8511 Warner Project was appealed and would be heard by the City Council in July or August.

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Items from Commissioners:

Commissioner Smith Frost received clarification that Commissioners were strongly encouraged to attend the Legislative Body Training to be held on June 18 from 6 p.m. to 10 p.m. in Council Chambers.

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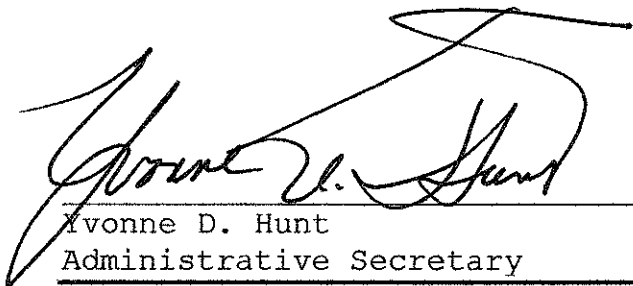
Adjournment

There being no further business, at 10:27 p.m., the Culver City Planning Commission adjourned to the next regular meeting on Wednesday, June 17, 2009, at 7:00 p.m. in the Mike Balkman Council Chambers.

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David Rockwell, Chair
City of Culver City
Planning Commission



Ivonne D. Hunt
Administrative Secretary
