



UPTOWN PLANNERS

Uptown Community Planning Group

AGENDA

NOTICE OF PUBLIC MEETING

August 3, 2010 – 6:00-8:30 p.m.

Joyce Beers Community Center, Uptown Shopping District

(Located on Vermont Street between the Terra and Aladdin Restaurants)

I. Board Meeting: Parliamentary Items/ Reports: (6:00 p.m.)

- A. Introductions
- B. Adoption of Agenda and Rules of Order
- C. Approval of Minutes
- D. Treasurer's Report
- E. Website Report
- F. Chair/ CPC Report

II. Public Communication – Non-Agenda Public Comment (3 minutes); Speakers are encouraged, although not required, to fill out public comment forms and provide them to the secretary at the beginning of the meeting. **(6:20 p.m.)**

III. Representatives of Elected Officials: (3 minutes each) (6:30 p.m.)

IV. Consent Agenda: none

V. Information Items: Projects (6:45 p.m.)

1. **SAN DIEGO GAS & ELECTRIC SMART METERS** – Uptown – Presentation regarding SDG&E new smart meters that will soon be installed in every home and business in Uptown (as well as throughout the City of San Diego). The smart meters will replace existing electric and gas meters.

VI. Action Item: Projects: (7:00 p.m.)

1. **3650 FIFTH AVENUE NUP("OSTERIA ORIGANO SIDEWALK CAFÉ")** — Process Two – Hillcrest -- Neighborhood Use Permit for a 495 sq. ft. sidewalk café for a restaurant at 3650 Fifth Avenue in the CV-1A Zone
2. **1751 UNIVERSITY AVENUE ("CLEARWIRE MARQUIS HILLCREST")** – Process Two – Hillcrest – Neighborhood Use Permit for a Wireless Communications Facility consisting of façade mounted antennas; FAA Part 77.
3. **3088 FIFTH AVENUE NUP("CAFÉ BASSAM SIDEWALK CAFÉ")** — Process Two – Bankers Hill/Park West - Neighborhood Use Permit for a 270 sq. ft. sidewalk café for an existing coffee/tea/wine bar at 3088 Fifth Avenue in the CV-1 & NP-1 Zone.

VII. Action Items Planning: (7:45 p.m.)

1. **Letter Requesting Enforcement of Existing CUP and NUP Regulations Re: Nightclubs and Bars:** Letter requesting that CPCI and the City Attorney immediately apply and enforce Municipal Code Sections §141.0614 (CUP requirement for a nightclub or bar over 5,000 sq. ft.) and §141.0607(NUP requirement for eating and drinking establishments abutting residentially zoned properties) in Uptown. See attachment #1 below, a letter for City Councilmember Todd Gloria, and attachment # 2 below, a memo from Leo Wilson. (Note: The Greater North Park Planning Group passed a similar motion focused on its community by a vote of 13-0 on July 21, 2010.)

VIII. Subcommittee Reports/ Community Reports/ Community Plan Update Advisory Group Report: (8:15 p.m.)

1. **Update On 4th/5th/6th Avenue Stop Signs – Information Item –** See attachment # 3 below, a comparison of accidents for the months of May-July 2009; with May-July 2010.
2. **Hillcrest City Fest** on August 8, 2010 from 12:00 noon to 8:30 p.m.
3. **Uptown Community Plan Update Open Mic** events will be held on August 2, 2010 and August 23, 2010; each will run from 6:00-9:00 p.m. See Attachment # 4 for the announcement.

IX. Adjournment: (8:30 p.m.)

X. NOTICE OF FUTURE MEETINGS

Design Review Subcommittee Will be no meeting.

Public Facilities Subcommittee: – Will be no meeting.

Uptown Planners: Next meeting: September 7, 2010 at 6:00 p. m., at the Joyce Beers Community Center, Hillcrest.

All times listed are estimates only: an item may be heard earlier than the estimated time:

Anyone who requires an alternative format of this agenda or has special access needs, please contact (619) 835-9501 at least three days prior to the meeting. For more information on meeting times or issues before Uptown Planners, contact Leo Wilson, Chair, at (619) 231-4495 or at leo.wikstrom@sbcglobal.net Uptown Planners is the City's recognized advisory community planning group for the Uptown Community Planning Area.

Visit our website at www.uptownplanners.org for meeting agendas and other information

ATTACHMENT 1



**OFFICE OF COUNCILMEMBER TODD GLORIA
COUNCIL DISTRICT THREE**

M E M O R A N D U M

DATE: July 7, 2010
TO: City Attorney Jan Goldsmith
FROM: Councilmember Todd Gloria *Todd Gloria*
SUBJECT: Interpretation of Large Nightclub and Drinking Establishment Ordinances

Municipal Code Section 141.0614 requires bars and nightclubs exceeding 5,000 square feet to obtain a Conditional Use Permit before opening in certain zones. It has come to my attention that this ordinance is not enforced in North Park or Uptown as it is Downtown.

To more effectively enforce this ordinance, I am seeking clarification on how it is applied. I would like to know the following:

- Whether the ordinance applies retroactively.
- Whether the ordinance applies to previously conforming businesses that have undergone change in ownership or substantial alterations since the ordinance was adopted.
- How "bar" and "nightclub" are defined under the ordinance.
- How 5,000 square feet is measured.
- Whether there is, or can be, an expedited permit process available to those applying for Conditional Use Permits.

Additionally, I would like more information on §141.0607, which requires eating and drinking establishments on premises abutting residential zones to obtain Neighborhood Use Permits if they operate past midnight.

- How is "abutting" defined? Does it include properties separated by an alley or easement, for example?

Proper application of these ordinances will help provide a clearer regulatory framework to address the issues associated with large nightclubs, bars and similar businesses in the Mid-City communities. Thank you for your assistance with this matter.

TG:ls/ab

CC: Honorable Mayor Jerry Sanders
Development Services Department Director Kelly Broughton
City Planning & Community Investment Department Director Bill Anderson

ATTACHMENT 2

From: Leo Wilson
To: Anthony Bernal and Steve Hill; Third City Council District
21 Jun 2010

Several questions regarding the implementation and application of Municipal Code Section **§141.0614** and **§141.0607** have been raised in both North Park and Uptown. Would request that Councilmember Gloria seek a clarification of how these ordinances apply from both CPCI and City Attorney Office.

1. **Section §141.0614:**

The text of the section **§141.0614** is attached below. As indicated, Section **§141.0614** applies to nightclubs and bars that are over 5,000 square feet in size. The ordinance has been applied Downtown, particularly in the Gaslamp. It has not been enforced in the Mid-City communities of Greater North Park or Uptown, despite references to it in the Mid-City PDO. The City's regulations for planned district ordinances expressly incorporate the ordinance, unless there is language stating that Section **§141.0614** does not apply.

Below is the text of the ordinance:

§141.0614 Nightclubs and Bars over 5,000 Square Feet in Size

Nightclubs and bars over 5,000 square feet in size may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property. Within the beach impact area of the Parking Impact Overlay Zone, off-street parking shall be provided at a ratio not less than one parking space for every 200 sq ft of gross floor area, including any outdoor eating or drinking areas.

(b) Hours of operation shall be limited so that neighboring *development* is not disturbed by noise and lights.

(c) A litter control plan shall be implemented to keep the facility and adjacent property free of litter.

(d) All storage, service, and repair areas shall be located on the site so that they are not visible from adjacent *development* and *public rights-of-way*.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

Several questions have been raised by community members regarding interpretation and application of Section **§141.0614**.

1.) Does Section **§141.0614** have a “grandfather clause” exempting businesses in existence prior to its adoption? Specially, does the ordinance apply only to nightclubs and bars over 5,000 feet in size that were permitted after the ordinance was adopted, with its effective date of January 1, 2000; or does the conditional use permit requirement also apply to businesses that were in existence prior to that date? Would it apply if there were substantial alternations to an existing business, or a change in ownership?

2.) What is the definition of “nightclub”, “bar”, and “theater” (the latter word is used in Section 15, Art. 12 Div. 3.21) under the ordinance? Would it apply to business establishments over 5,000 square feet in size which serve food, and purport to be restaurants, as an example?

3.) How is the 5,000 square feet stated in Section **§141.0614** measured? Is it based on the documentation filed in County records regarding the size of business premises; or is there another standard of measurement?

4.) Downtown has established an expedited permit process for this type of conditional use permit; which attempts to limit costs and provide certainty to business owners regarding their permit within a reasonably short period of time. Can a similar expedited permit process be established under the Mid-City PDO for Greater North Park and Uptown?

2. Section §141.0607:

The second ordinance in question is Municipal Code Section **§141.0607**, which applies to eating and drinking establishments abutting residentially zoned property:

§141.0607 Eating and Drinking Establishments Abutting Residentially Zoned Property

Eating and drinking establishments on *premises* abutting residential zones are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the regulations in Section 141.0607(a). Eating and drinking establishments abutting residentially zoned property that do not comply with Section 141.0607(a) may be permitted with a Neighborhood Use Permit subject to the regulations in Section 141.0607(b).

(a) Limited Use Regulations

(1) Eating and drinking establishments abutting residential zones may operate only during the hours between 6:00 a.m. and 12:00 midnight.

(2) In the IL-3-1 zone, eating and drinking establishments shall also comply with Section 131.0623(b).

(3) Drive-in and drive through restaurants, live entertainment, and the sale of intoxicating beverages other than beer and wine are not permitted in the CN zones.

(b) Neighborhood Use Permit Regulations. Except in the CN zones, eating and drinking establishments abutting residential zones that do not comply

with Section 141.0607(a) may be permitted with a Neighborhood Use Permit subject to the following regulations.

(1) All activities associated with the establishment shall occur within an enclosed building between the hours of 12:00 midnight and 6:00 a.m.

(2) Drive-up or drive-through service is not permitted between the hours of 12:00 midnight and 6:00 a.m.

(3) Live entertainment is not permitted between the hours of 12:00 midnight and 6:00 a.m.

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San Diego Municipal Code Chapter 14: General Regulations

(12-2009)

(4) The operator of the establishment shall take reasonable steps to prevent loitering on the *premises*, in parking lots serving the *premises*, and on public sidewalks adjacent to the *premises*.

(5) In the IL-3-1 zone, eating and drinking establishments shall also comply with Section 131.0623(b).

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 11-13-08 by O-19803 N.S; effective 12-13-2008.)

Although the text of the ordinance is reasonably detailed, one question that has arisen is the interpretation of the word “abutting.” Does this require the residentially zone property be on the actual property line boundary of an eating or drinking establishment? Would the ordinance apply where an alley, or other easement, existed between the properties in question? If an easement or alley was subject to vacation, or was actually vacated, would the ordinance apply?

As I stated at the Greater North Park Planning Group meeting on June 15, 2010, my feeling is the effective application of both these ordinances would likely provide a sufficient regulatory framework to address the current issues regarding large nightclubs, bars and similar businesses in the Mid-City communities.

ATTACHMENT 3

Comparison of accident rates before and after stop sign installation

2009:14 accidents in yellow area/5 in blue area

4th/5th/6th Avenue Corridor

Laurel Street to Upas Street highlighted in yellow

Hawthorne Street to Laurel Street highlighted in blue

May 2009

ACCIDENTS	05/07/2009	0755-1025	4TH AV/ELM ST (SD)
ACCIDENTS	05/07/2009	1308-1408	2ND AV/ELM ST (SD)
ACCIDENTS	05/07/2009	1548-1618	6TH AV/GRAPE ST (SD)
ACCIDENTS	05/11/2009	1256-1258	2600 05TH AV (SD)

ACCIDENTS	05/14/2009	1301-2316	300 NUTMEG ST (SD)
ACCIDENTS	05/15/2009	1049-1116	3600 05TH AV (SD)
ACCIDENTS	05/21/2009	2224-2226	NB 163/AT QUINCE DR (SD)
ACCIDENTS	05/20/2009	0939-1025	3700 06TH AV (SD)
ACCIDENTS	05/29/2009	0047-0232	1ST AV/W LAUREL ST (SD)

June 2009

ACCIDENTS	06/03/2009	1232-1310	4TH AV/MAPLE ST (SD)
ACCIDENTS	06/05/2009	1737-2208	BALBOA DR/QUINCE DR (SD)
ACCIDENTS	06/09/2009	0659-1015	4TH AV/IVY ST (SD)
ACCIDENTS	06/18/2009	1657-1900	4TH AV/HAWTHORN ST (SD)
ACCIDENTS	06/19/2009	1658-1750	5TH AV/SPRUCE ST (SD)
ACCIDENTS	06/25/2009	0730-0818	6TH AV/QUINCE DR (SD)
ACCIDENTS	06/29/2009	1415-1445	1ST AV/JUNIPER ST (SD)
ACCIDENTS	06/30/2009	0840-0900	4TH AV/MAPLE ST (SD)

July 2009

ACCIDENTS	07/04/2009	1821-2101	6TH AV/ELM ST (SD)
ACCIDENTS	07/07/2009	1456-1747	5TH AV/PALM ST (SD)
ACCIDENTS	07/11/2009	0110-0135	1ST AV/ELM ST (SD)
ACCIDENTS	07/14/2009	1142-1639	5TH AV/THORN ST (SD)
ACCIDENTS	07/15/2009	1416-1528	4TH AV/MAPLE ST (SD)
ACCIDENTS	07/15/2009	1050-1224	6TH AV/REDWOOD ST (SD)
ACCIDENTS	07/18/192009	1521-0531	6TH AV/UPAS ST (SD)
ACCIDENTS	07/19/2009	1125-1243	5TH AV/KALMIA ST (SD)
ACCIDENTS	07/19/2009	1205-1232	2300 5TH AV (SD)
ACCIDENTS	07/19/2009	1526-1532	4TH AV/KALMIA ST (SD)
ACCIDENTS	07/21/2009	1348-1400	4TH AV/OLIVE ST (SD)
ACCIDENTS	07/24/2009	1643-1901	4TH AV/FIR ST (SD)
ACCIDENTS	07/24/2009	1932-2024	5TH AV/MAPLE ST (SD)
ACCIDENTS	07/31/2009	1807-2123	4TH AV/PALM ST (SD)

2010: One accident in yellow area/6 in blue area

**4th/5th/6th Avenue Corridor (WITH STOP SIGNS IN YELLOW AREA)
 Laurel Street to Upas Street highlighted in yellow)
 Hawthorne Street to Laurel Street highlighted in blue**

May 2010

ACCIDENTS	05/08/2010	1742-2110	4TH AV/KALMIA ST
ACCIDENTS	05/14/2010	1138-1218	1ST AV/LAUREL ST
ACCIDENTS	05/16/2010	1503-1558	4TH AV/ELM ST
ACCIDENTS	05/18/2010	1448-1522	5TH AV/HAWTHORN ST
ACCIDENTS	05/24/2010	1544-1833	2ND AV/HAWTHORN ST

June 2010

ACCIDENTS	06/04/2010	2101-2320	1ST AV/LAUREL ST (SD)
ACCIDENTS	06/04/2010	1421-1909	2700 1ST AV (SD)
ACCIDENTS	06/10/2010	2111-2135	ALBATROSS ST/W IVY ST
ACCIDENTS	06/12/2010	0614-0633	5TH AV/IVY ST (SD)
ACCIDENTS	06/15/2010	1726-1744	3RD AV/LAUREL ST (SD)
ACCIDENTS	06/19/2010	2118	4TH AV/NUTMEG ST (SD)
ACCIDENTS	06/23/2010	0842-1032	1600 1ST AV (SD)
ACCIDENTS	6/24/2010	1052-1225	3RD AV/HAWTHORN ST (SD)

ACCIDENTS	06/29/2010	1030-1057	300 SPRUCE ST (SD)
ACCIDENTS	06/29/2010	1051-1116	1ST AV/LAUREL ST (SD)

July 2010

ACCIDENTS	07/02/2010	930-1003	2400 6TH AV (SD)
ACCIDENTS	07/02/2010	1047-1053	6TH AV/UPAS ST (SD)
ACCIDENTS	07/05/2010	1457-1617	2ND AV/FIR ST (SD)
ACCIDENTS	07/11/2010	2312-2321	4TH AV/HAWTHORN ST (SD)
ACCIDENTS	07/12/13/2010	2339-0007	3RD AV/HAWTHORN ST (SD)
ACCIDENTS	07/13/2010	1143-1215	ALBATROSS ST/W LAUREL ST
ACCIDENTS	07/15/2010	1023-1049	1900 4TH AV (SD)
ACCIDENTS	07/16/2010	1041-1500	5TH AV/FIR ST (SD)
ACCIDENTS	07/17/2010	1655-2040	2100 6TH AV (SD)
ACCIDENTS	07/18/2010	1244-1353	5TH AV/KALMIA ST (SD)

ATTACHMENT # 4

MONDAY, August 2nd, 2010
6 P.M. - 9 P.M.
Open Mic #4:
SANTA FE ROOM OF THE BALBOA PARK CLUB

Matt Norton, Consultant
City Planning & Community Investment Department, City of San Diego
by phone 619.232.2112 X102 or email MattN@CollaborativeServices.biz
This meeting will be a series of short presentations by speakers from various community-based and professional organizations. The order of presenters will be randomly selected at the meeting.

RSVP

Open Mic #4 Confirmed Presenters:

American Planning Association
City of San Diego Arts and Culture Commission
Hillcrest Towne Council
North Park Residential Improvement District
University Heights Historical Society
Urban Land Institute

Please Save the Date for
Open Mic #5:

UPCOMING OPEN MIC PRESENTATIONS
UPTOWN, NORTH PARK AND GREATER GOLDEN HILL
COMMUNITY PLAN UPDATES

Due to a high level of interest, a series of Open Mic Presentations have been scheduled for the community to hear from various organizations that are working on topics related to

the Community Plan Update process for Uptown, North Park, and Greater Golden Hill.

“ “

MONDAY, August 23rd, 2010

6 P.M. - 9 P.M.

SANTA FE ROOM OF THE BALBOA PARK CLUB

Presenters for one more scheduled Open Mic are currently being finalized. Organizations that have expressed an interest in presenting are shown here in alphabetical order: Bankers Hill/Park West Community Association, Council of Design Professionals, Mission Hills Heritage, Neighborhood Historic Preservation Coalition, North Park Main Street and Walk San Diego.