



DEPARTMENT OF
PLANNING AND DEVELOPMENT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
ROOM 200
SACRAMENTO, CA
95814-2998

BUILDING INSPECTIONS
916-449-5716

PLANNING
916-449-5604

January 20, 1988

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: APPEAL OF CITY PLANNING COMMISSION DENIAL OF A MODIFICATION OF A
SPECIAL PERMIT (P84-242) TO INCREASE SEATING FROM 60 TO 150 (P87-340)

LOCATION: 5770 Freeport Boulevard

SUMMARY

In 1985, the City Council approved a Special Permit (P84-242) to allow a Leatherby's Ice Cream Parlor on Freeport Boulevard in the Executive Airport Overlay Zone (EA-2). A special condition limited the maximum seating to 60. The applicant recently filed a request to modify the Special Permit condition to allow 120 seats. This request was denied by the Planning Commission and is before the City Council on appeal.

BACKGROUND

The ice cream parlor is located in the Cort Yard Shopping Center, which is zoned C-2 (EA-2). The EA-2 overlay zone applies to areas in close proximity to airport runways and within primary flight paths. In 1984, the City Council amended the EA-2 zone to allow ice cream parlors with table service (a people intensive use) to locate in that zone subject to a Special Permit. This ordinance amendment was opposed by the Federal Aviation Administration, CalTrans Aeronautics Division, Sacramento County Department of Airports and by the Airport Land Use Commission. In 1985, the Planning Commission approved a Special Permit to allow Leatherby's in the Cort Yard with a condition which set the maximum seating at 60 persons.

On June 27, 1986, the owner of the Cort Yard was notified that Leatherby's was in violation of their special permit conditions with seats for 172 and the placement of seats in the common area of the center.

After abating the violation, Leatherby's filed a request to amend the condition to allow 150 seats and a parking variance to waive 31 spaces needed to accommodate the additional 90 seats. Just prior to the Commission hearing on the matter, the applicant revised the request to 120 seats and variance for 21 spaces.

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The matter was considered by the Planning Commission and, after hearing testimony for and against the request, the Commission voted to deny the additional seating. Several commissioners cited that although they voted for the original Special Permit, they were led to believe that 60 seats was all they needed. The Commission also denied the variance to waive 21 required parking spaces.

Following the Commission's action, the applicant filed an appeal for the Special Permit. Inadvertently, the applicant did not appeal the denial of the variance; however, they wish to proceed with the hearing on the Special Permit. Staff has advised them that this course will necessitate a refiling of the variance application.

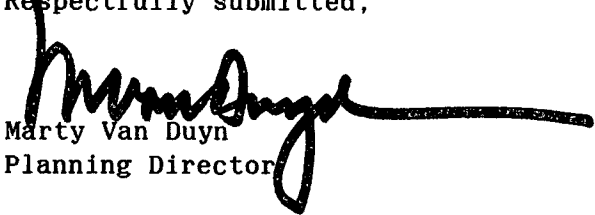
VOTE OF THE PLANNING COMMISSION

On December 3, 1987, the Commission voted six ayes (two absent, one vacant seat) to deny the Special Permit Modification and Variance.

RECOMMENDATION

The Planning Commission and staff recommend the City Council deny the appeal based on the attached findings.

Respectfully submitted,


Marty Van Duyn
Planning Director

FOR CITY COUNCIL INFORMATION
WALTER J. SLIPE
CITY MANAGER

MVD:AG:rt
attachments

District No. 4
January 26, 1988

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