

COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT

3

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Larry Appel, Supervising Planner
Development Review Division 

DATE: March 31, 2003

RE: Loading Dock Information (315 S. Broadway, Orcutt)

The following information is provided as a follow up to a recent board letter concerning the permitting, zoning violations, and fees for the Loading Dock. The department has been involved with the permitting since April 1997. An early chronology is attached that shows our department's involvement through August 1999 (Attachment A). While the department fully supports the permitted uses currently operating from the facility, the chronology clearly shows that there was reluctance on the part of the owners to comply with standard requirements for permitting. The original land use permit (LUP) was issued for "wholesale use for antiques and art warehouse." This was the specific use that was requested by the owner's agent (Mr. Madden). As it turns out, the actual uses in the building were not consistent with the approved use, so the zoning violation process ensued.

In the past two years the department has waived all zoning violation fees and some departmental processing fees for the current permit. The waived fees total \$12,974. The owners were further accommodated by allowing their remaining \$950 LUP fee to be paid over a five-month period. However, no payments were ever made under the signed agreement so the department has not issued the LUP balance is paid in full. A summary of the fees that have been waived and current processing fees are included as Attachment B.

The following comments will address and clarify points made in the Executive Summary from a Board Letter dated 03/06/03.

The original LUP was issued for a use consistent with the M-1 zoning designation (wholesale warehousing). The café and deli were never part of the LUP, and if requested, would have been denied. The building permit plans were drawn differently from the LUP and showed a "kitchen" in a small corner of the building. The assumption was that it was going to be used for an employee break area, since no mention of it had been shown on the LUP plans.

Prior to the change in zoning (through the Orcutt Plan revision) staff had notified the owners what their uses would allow with C-2 zoning. The uses specifically did not include special events, like concerts and fundraisers. Staff agreed that if some entertainment was provided as a secondary use for the cafe patrons, and it was contained within the building, then that use would be allowed under the C-2 zoning. The large concerts and fundraisers that had been held outside

and without permits is still not permitted and will require a major conditional use permit. This information has been reiterated to the owners since the early days of permitting in 1997.

One of the concerns for the concerts and fundraisers is that the area used is supposed to be reserved for onsite parking. This parking has been shown since the first land use permit was issued in 1997. The parking was required in order to meeting Article III zoning requirements. One reason the zoning violation continued so long was that the owners continued to fence off the parking area. Therefore, parking is not a new requirement. Parking has always been required onsite.

It is unfair and incorrect to label some staff as supporting the project while others are seen as opposing it. Staff from the Comprehensive Planning Division were working with the owners to obtain the change in zoning which would finally allow the business to operate legally. Fees for the rezone (~\$9000) were absorbed by the department as part of the Orcutt Plan update. Just because the Development Review staff required a land use permit with conditions for operation of the business in no way means they "threw the book" at the owners. A land use permit is required for all commercial businesses whether new or for changes in use within an existing building. The conditions were required to ensure compliance with the zoning ordinance as the OCP.

The fee for processing this application was minimal and yet management still reduced it in an attempt to assist the business. Fees required by other departments, as part of the Orcutt Community Plan (OCP), are paid by all developments, small and large. The OCP includes several policies that address fiscal impacts for development in the area. Policy FSCL-O-1 states, ***"The County shall ensure that adequate funding is available for the construction of public infrastructure and facilities as identified in the OCP and the Public Infrastructure Financing Program."*** The OCP fees have been set and readjusted by the Board as needed. The unpaid outstanding P&D charges are \$950. The County Road fees are also due prior to issuance of the land use permit. Those fees are required as part of the Orcutt Transportation Improvement Plan (OTIP). Once these two fees are paid, the land use permit will be issue. P&D has been actively pursuing various grants in order to revitalize the commercial areas of Old Town Orcutt.

Staff would be happy to respond to any questions that arise from this memo or the initial Fourth District Board letter dated 03/06/03.

Attachments

- A – Early Chronology
- B – Accounting Summary

cc: Dianne Meester, Interim Director
Steve DeCamp, Deputy Director

LOADING DOCK CHRONOLOGY

315 South Broadway
Orcutt, CA
APN: 105-121-005

- 04/07/97 Mr. Madden applies for LUP. "Wholesale use for antiques and art warehouse."
- 05/13/97 97-LUN-218 issued for Interior tenant improvements to existing structure and change of use to a wholesale art and antique distribution warehouse.
- July '97 Mr. Madden meeting with John Karamitsos trying to get the property included in the OCP. John says it is too late.
- 07/22/97 Board adopts Orcutt Community Plan (OCP)
- 12/24/97 Letter received by John Patton from Mr. Madden (actually dated 9/16/99) requesting Patton include their parcel in the OCP. Letter and attachment admits used include: Espresso bar and café, art gallery and antique shop.
- 02/23/99 Courtesy letter from Larry Appel explaining how the department had been encouraging the owners to submit permits for over a year and that it was now necessary to file a formal violation.
- 02/24/99 Notice of Violation – off-premise signs only. Letter asked them to remove the off premise signs (three in various locations throughout Old Town) and to please come in to submit applications to legalize the rest of the operation.
- 04/28/99 NOV for coffee shop, retail sales, closed off parking lot and art studio
- 04/29/99 Letter from Kim Probert with copies of all the required permit applications.
- 06/29/99 NOV time extension granted to 8/15/99 for more time to complete applications.
- 08/16/99 Mr. Madden met with Ms. Probert at the counter and told her: 1) he was not going to submit applications, 2) Building and Safety had issued them all the permits to make them legal, and 3) if we didn't stop harassing them, he would sue us.
- 08/19/99 Notice of Determination of Violation Fees letter prepared and sent to the Loading Dock owners (\$10,900).
- 08/19/99 NOV was expanded to cover weekly concerts being held at the site.
- 08/24/99 Memo sent to Orcutt Fire Department by Mr. Appel with a request to inspect the property given the level of activities where were unpermitted and possibly posing a fire/safety hazard.

	Date	Fee Amount	Fee Type	Comments
1.	12-22-00	\$10,900	Zoning Violation Fine	<u>Waived</u> Zoning Violation Fines Waived, per Noel Langle, Letter Dated December 22, 2000
2.	07-01-01	\$9,000	Processing Cost Value	<u>Not Charged</u> Current Deposit Required for Private Processing Cost for a Property Re-Zone County incurred cost as part of Orcutt Plan Amendments in July of 2001.
3.	09-20-99	\$826.50	Zoning Violation Labor Charges	<u>Waived</u> Waived by Steve DeCamp, 02-17-03
4.	02-18-02	\$47.50	Zoning Violation Labor Charges	<u>Waived</u> Waived by Steve DeCamp, 02-17-03
5.	11-26-03	\$425.00	P&D LUP Fixed Processing Fee	<u>Paid</u> On November 26, 2002, the applicant applied for a LUP paying \$425.00 at time of intake (Fixed Fee). In December the applicant was informed that the case would be converted to a "deposit" case and they would need to pay additional \$425.00 for ZV "doubling fee". In meeting of 02-17-03, Steve DeCamp waived "doubling fee".
6.	02-17-03	\$950.00	LUP total Remaining Processing Fee	<u>Unpaid Outstanding Charges</u> In meeting of 02-17-03, Steve DeCamp waived "doubling fee". In addition, at that meeting the applicant agreed to pay the processing fees owed to date (\$450) + an additional 5 planner hours (\$500). An agreement was made that a payment plan would be set up (total of \$950). The payment plan was established for a five month period and sent to the applicant in writing during the last week of January 2003. The first payment of \$190 was due on February 1, 2003. To date that money has not been received.

Paid: \$425.00

Fees Due: \$950.00

Fees Waived: \$12,974