

**CITY OF HIGHLAND HEIGHTS
PUBLIC HEARING OF THE PLANNING AND ZONING COMMISSION
HELD: JUNE 14, 2010**

PRESENT: Commissioners Adamus, D'Amico, Mastrangelo, McFadden; Urban;
Temporary Recording Clerk Buchak; Building Commissioner Grabfelder

ABSENT: Recording Clerk Olson

**SUBJECT: NAYA BISTRO & LOUNGE, 6323 WILSON MILLS ROAD
PZ10016 & PZ10017 VARIANCE TO SERVE LIQUOR ON PROPOSED RE-
DESIGNED OUTDOOR PATIO**

Public Hearing was called to order at 8:11 p.m. Notices of this Public Hearing were mailed in accordance with Section 1113.04.

Variance is requested as follows:

1. Variance from HHCO Section 1131.04(d)(2)C: "USE REGULATIONS; General Business District", which requires that the sale, serving and consumption of food and beverages be conducted wholly within enclosed buildings, to allow the consumption of food and alcoholic beverages on an outdoor patio.

Bob Lekic, Naya Bistro & Lounge, 6323 Wilson Mills Road, The Shoppes at Alpha Place, appeared before the Commission to obtain a variance to serve liquor on Naya's outdoor patio.

Chairman Mastrangelo advised the applicant of his right to be represented by an attorney. Mr. Lekic waived that right.

(Background: A variance was granted on April 13, 2009 that granted approval to allow the consumption of food and *non-alcoholic* beverages on outdoor patios located at The Shoppes at Alpha Place, contingent that each patio be individually approved by the Commission. On April 12, 2010 the Commission granted approval of the proposed outdoor patio at Naya Bistro & Lounge based on the plans dated March 31, 2010, for service of food and *non-alcoholic* beverages. Naya has submitted drawings of a patio design modification for tonight's meeting and is now requesting approval to serve *alcoholic* beverages on the re-designed outdoor patio.)

Tonight's Public Hearing addressed the proposed patio re-design that was discussed at the regular meeting on May 24, 2010 and then continued at tonight's meeting. Mr. Lekic submitted drawings of the revised patio and the design of the anchor poles that support the fence surrounding the patio. The patio re-design drawing shows the addition of swing-gates to the front of the fence located around the perimeter of the patio that would be directly opposite and as wide as the 6-foot 6-inch wide double doors opening from the restaurant onto the patio.

At the meeting on May 24, 2010, the Commission advised Mr. Lekic to obtain written affirmation from the Ohio Liquor Board that they will support the plans for the proposed patio prior to the

Commission's continued consideration on this matter. At tonight's meeting, Mr. Lekic responded that the Ohio Liquor Board has verbally pre-approved the proposed patio plans, but will not inspect, grant final approval, or issue a liquor permit for the patio until after the patio has been constructed. He said the inspector has visited the site and reviewed the drawings and raised no issues with the project.

There was much discussion regarding the operation of the proposed swing gates located at the front of the fence adjacent to the 44-inch pedestrian walkway. The Fire Department issued a letter dated June 14, 2010 stating they cannot support the proposal as designed because the swing gates will interfere with the doors leading from the restaurant onto the patio, and that the swing gates as designed will encroach into the required minimum pedestrian walkway width of 44 inches.

The remainder of the Hearing was a "workshop" discussion among those in attendance who offered suggestions and options for the patio design and swing gates that would meet both building and fire codes. Some of the suggestions were to replace the swing gates with break-away sliding gates; to make only one of the swing gates operational; and to make only one of the doors leading from the restaurant onto the patio operational.

Mr. Lekic stated the fence is anchored by poles measuring two inches in diameter that are set into holes drilled into the concrete. The poles will be removed in the winter and the holes will be capped and flush with the ground. The Commission replied the pole diameter will structurally support the fence but does not provide an adequate protective barrier from the parking lot. The applicants replied that cars will approach the parking spaces very slowly because they have to maneuver a 90-degree turn into the parking aisleway that immediately precedes the parking spaces.

Elis Chamoun, part-owner of Naya Bistro & Lounge, residing at 231 Legacy Drive, Highland Heights, Ohio 44143, stated it is vital to the success of his business to have the patio and liquor license as soon as possible to be competitive with the eateries within The Shoppes at Alpha Place. The Commission agreed to grant approval for the patio re-design, contingent on a revised set of drawings showing a sliding gate, and specifications of the gate design submitted to the Fire Department for approval. Chairman Mastrangelo advised the applicants they may commence construction of the patio as soon as they submit the revised drawings to the Building Department and receive approval from the Fire Department. Mr. Chamoun agreed.

Lance Osborne, Alpha Plaza Investments, 7670 Tyler Boulevard, Mentor, Ohio 44060, stated he is requiring that Naya construct a removable fence to be taken down in the winter for aesthetic reasons and easier snow removal. He said the fence and anchors as proposed by the applicant are acceptable to him.

The applicants stated that if the fence is dismantled each winter, the Ohio Liquor Board will be required to visit the site annually to re-evaluate and approve the fence. Mr. Chamoun stated that the State Liquor Board is also required to make annual visits to Naya to re-approve the liquor license. The Commission suggested that the purpose of the annual visits be combined to both approve the fence and re-approve the liquor license.

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Miss D'Amico stated she must recuse herself from this matter due to her association with some of Mr. Chamoun's relatives.

Public Hearing opened to the Public. No one spoke.

Public Hearing closed at 8:40 p.m.

Jean Buchak, Temporary Recording Clerk
(Minutes Prepared by Susan M. Olson, Recording Clerk)

Robert J. Mastrangelo, Chairman