

MINUTES OF A REGULAR VOTING MEETING OF THE

FAIRFIELD PLANNING COMMISSION

February 13, 2013

Scott Lepsky, Chairman, called the Regular Meeting of the Fairfield Planning Commission to order.

Members present: Scott Lepsky, Bob Myron, Tom Hasselbeck and Bill Woeste.

Scott Lepsky, seconded by Bill Woeste, made a motion to excuse Don Hassler, Jeff Holtegel and Mark Morris. Motion carried 4 – 0.

MINUTES OF THE PREVIOUS MEETING:

The minutes of the previous meeting, held January 23, 2013, were approved as submitted.

OLD BUSINESS:

Conditional Use Application – Junk Yard and Sales of Used Cars and Car Parts – 3385 Port Union

Tom Hasselbeck, seconded by Bob Myron, made a motion to remove the application from the table. Motion carried 4 – 0.

Slides were shown of the property depicting areas used for vehicle storage, salvage and car sales. There was confusion at the last meeting regarding an inspector that was having Mr. Ticacala make various improvements throughout the property. It was determined it was a state inspector who works with the Department of Public Safety. Mr. Bachman spoke with him and he confirmed he had Mr. Ticacala make the improvements. A fence had to be installed to separate the salvage from the used car sales and gravel put down in the storage lot. The state inspects for requirements mandated by the Department of Public Safety but also informs the clientele they need to check with local zoning for use compliance. There is a 3,500 s.f. minimum requirement for used car lots making the sale of cars from inside the building problematic. If Mr. Ticacala were to sell his cars at a different location, a \$25.00 transfer fee would need to be paid to the State. It was Mr. Bachman's recommendation that the sale of cars not be permitted at this location. They could however be stored there until Mr. Ticacala runs them back through the auction. The signs on the property also need to be changed so they no longer advertise the sale of cars. In regard to the junk yard, staff proposed meeting with the owners and tenant before April so a plan can be implemented to have the site cleaned up prior to October 31st.

Juan Ticacala, son of the applicant, had questions regarding transferring the license and was told he needed to speak with the state inspector. It was also clarified for Mr. Ticacala that the sale of cars cannot occur on this property. They can be stored there until they are taken to another location to be sold. Also, "and cars" needs to be removed from both signs. Mr. and Mrs. Pott, owners of the property, also agreed to meet with staff regarding cleaning up the property.

Tom Hasselbeck, seconded by Bill Woeste, made a motion to accept staff's recommendation to remove the sale of used cars and have the zoning department meet with the owner before April 1st so a plan can be developed to have the site cleaned up by October 31st.

Motion carried 4 – 0.

NEW BUSINESS:

Conditional Use Application –Caring Hearts Adult Day Care – 441 Patterson Drive

A floor plan of the church was shown with the area of the proposed for the daycare outlined. Ms. Gloria Hayes, applicant, informed the Commission she has been operating since 2000 at 1208 W. Galbraith Road and now is proposing a second location. She worked under the Ohio Department of Aging and with the Council on Aging which is where many of her clients are referred from. The daycare is open from 8 a.m. until 4 p.m., Monday thru Friday. There are activities for the clients and a continental breakfast and hot lunch is served daily.

Erin Donovan visited the North College Hill facility and stated is very nice, warm and welcoming. The day care falls between a senior center and nursing home. Clients might have some immobility but not to the point that they would require a nursing home. They are picked up by small busses or vans and spend the day there.

Ms. Hayes informed the Commission that most of the adults are picked up. The Council on Aging requires 60 s.f. per person and 1 care giver for every 6 people. The highest number of clients she has had at the current day care at one time was 20. She does not take clients that are really sick but some do need walkers or wheelchairs. Clients have a variety of activities throughout the day and monthly outings are also offered. Mr. Woeste asked if clients would be from local neighborhoods and was informed referrals are mainly through the Council on Aging. They cover five counties of which Butler is one. Prior to running the day care, Ms. Hayes had a home health care agency which she retired from in 2011 but kept the day care.

Pastor Larry Thompson, New Life Worship Center, stated this will be a benefit to the community as there are many seniors in the area. The space she will be leasing is over 1,000 s.f. and Ms. Hayes will also have access to the kitchen and another large room.

Scott Lepsky, seconded by Tom Hasselbeck, made a motion to approve the Conditional Use Application for Caring Hearts Adult Day Care as requested with the days of operation being Monday thru Friday from 8:00 a.m. until 4:00 p.m.

Motion carried 4 – 0.

P.U.D. Concept Plan Modification – Patterson Place

Jeff Chamot, Neyer Properties, introduced Wes Young and Tim Bete of St. Mary's Development Corporation. Tim Bachman stated a modified site plan and building elevations were just sent out

today and have been incorporated into this evening's presentation. The original concept plan was approved in December 2009 and is located in a Tax Increment Finance District. In 2009, a portion of the property was proposed as a three story facility of affordable housing (120 rental units). Detached single family was proposed to the west. The three story building did not receive state funding approval and is now being considered by another developer. The area being discussed this evening is the 9.13 acres which had been previously approved for detached single family.

Slides were shown of the revised site plan, rendering and elevations. Initially, 60 units had been proposed. Modifications were made to enlarge the units which reduced the total to 52. The buildings will have 2, 3 or 4 units. Mr. Chamot told the Commission that buildings with no street view will be plainer than those that can be seen from the street. Mr. Bachman stated the units originally were 920 s.f. In an effort to make the four unit buildings more ascetically pleasing, Mr. Chamot said the entrance doors were moved to the front which necessitated the widening of the middle units.

Mr. Wes Young said a clubhouse is also proposed for use by the residents of the development as well as the leasing manager. He gave the history of St. Mary's which started in 1989. They are developers or co-developers and manage over 600 units primarily in the Dayton area. If approved, St. Mary's would also manage Patterson Place. This is a competitive project that will require approval and funding by the state. There is a demand for this product which is why they are proposing attached rental units.

Mr. Bachman showed the Commission slides of other similar products in the area which included Lauryn Meadows, Benchway and Olde Winton. Lauryn Meadows is 15 duplex structures on 4.5 acres (6.55 density with units being approximately 1,500 s.f.); Benchway, 22 units on 4.6 acres (4.75 density with units at 1,800 s.f and Olde Winton, 39 units on 5.8 acres (6.73 density with units varying from 1,100 s.f. and greater). The Patterson Place proposal is 52 units on 9.13 acres for a density of 5.69. Jeff Chamot stated the density was reduced in order to keep some green space in the front where a gazebo will be constructed. If approved, it will be a Green Community certified project. He added the six acres to the east of the retention pond is currently under contract for an assisted living senior product.

Mr. Tim Bete said this project will be affordable senior housing. In addition to the rents being affordable, St. Mary's is also very keen on providing supportive services to their residents.

A copy of the conditions of approval given in 2009 was supplied to the Commissioners and read by Mr. Bachman. St. Mary's application to the State for funding is due February 21st so the Commission must decide if they are willing to modify the project and allow it to move forward or stay with the original conditions of approval.

Mr. Lepsky stated when the project was first proposed, it was single family detached housing that seniors could purchase and when necessary, move into the assisted living facility proposed on the other side of the detention pond. Mr. Bachman said the three story building was not approved as assisted living but independent affordable housing. Mr. Chamot explained the three story building was proposed in two phases. The common area and half the building (60 units) were first proposed.

They are now asking for 52 units of affordable housing instead of 60. Mr. Lepsky replied the area being discussed now was originally supposed to be owner occupied. In 2009, about 33 homes were approved; now the proposal is 52 attached multi-residence facilities. Mr. Chamot stated when the original concept plan was submitted, the main focus was the multi-story building. The concept plan showed 66 duplex units but the Planning Commission recommendation was for detached single family homes.

Mr. Lepsky asked what is proposed on the east side of the pond and was told the site is under contract with a group that wants to construct an assisted living facility. They are looking at a single story, 100 bed facility which is different than the apartment project proposed in 2009. Market studies indicate there is a huge demand for it in this area. That portion of the site had been submitted to the State on two separate occasions and had scored well; it was first on the waiting list. It is a great location for seniors with many amenities within walking distance.

Affordable housing was discussed. Mr. Young explained there are three tiers of rent based on adjusted median income – 60%, 50% and in this case, 30% enabling them to get a wider range of clients. The difference between affordable housing and market based housing is how it gets funded, not in the quality of construction or amenities provided. The tax credits allow the units to be modified to accommodate clients in wheel chairs, etc. The 30% rents would start at about \$460/month gross. It could go up as high as \$700 for the 50% and close to \$800 for the 60% rent. As there are no other low income tax credit projects in this area, they would receive new market points which would increase their chance for receiving state funding. The % is based on the adjusted median income for the surrounding area used in the market study which includes Hamilton. Six units would be at 30%, 26 at the middle and 20 units at the high end. The reason for the change from owner occupied to rental is there is more demand. The design of the units are geared more towards young seniors (55 and up) who own cars and might need the extra storage room in the garage for items they bring with them in the downsize.

Vacancy rates were discussed and the Commission was told of the 600 plus units managed by St. Mary's, approximately 96% are full. Because of the additional support offered, residents only move out when it's necessary to go into a nursing home or they die. Mr. Bachman said an article in the City newsletter in 2009 generated a lot of interest in the single family portion of the project.

With the application deadline only a week away, Mr. Woeste questioned why the Commission was not informed or educated about the project prior to this evening. Mr. Bete stated the project was redesigned in the last week. Mr. Bachman added the Neyer/St. Mary's team met with staff in mid-January and were shown pictures of other developments. They were told to submit plans for what was going to be offered here and once received, was placed on the Commission's agenda. Mr. Chamot said the State doesn't release details of what will be funded until December. Mr. Bachman reminded the Commission this is conceptual approval only. Final details and design is still another step. If the modified Concept Plan is approved, there is concern that the Final Plan might not be approved by the Planning Commission or City Council. St Mary's is looking for concept approval so they can file their application for funding. Ms. Donovan added that if the application is approved, modifications to the Final Development plan may not financially be possible due to the amount of state funding received. Mr. Lepsky expressed his reservations in not having a full plan submitted for

the development. Mr. Young said the approval is a two-step process. If a project receives the first approval, it moves on to the final design stage.

Mr. Chamot told the Commission Neyer has tried to market the property for the past couple years to developers. They either didn't want to pay the asking price for the land or felt the property had too many issues (flood zone, etc.). There were originally 153 units approved for the overall site. The east side of the pond will still need to be reviewed and approved for both concept modification and final development plan.

Mr. Ron D'Epifanio pointed out the three developments used in the comparison are all owner occupied.

Ms. Debbie Pennington stated she was the realtor for Benchway and now for Olde Winton, both which are single family developments. There is a big demand for senior housing but felt this project should be single family owner occupied. There is not much land left and caution should be taken as to how development in Fairfield is finished. Affordable housing is a concern. It's very nice when first built but what will it look like in 20 years. When you own property, you take pride in it.

Mr. Woeste expressed his concern with having to render such a quick decision on this project. He was uncomfortable with going forward at this point. Mr. Myron agreed; it is a completely different change from the 2009 approval. Senior housing is a good idea but he cannot support rental units.

Scott Lepsky, seconded by Bill Woeste, made a motion that the modifications to the Concept Plan presented for Patterson Place be denied as redesigned for the most recent submittal.

Motion carried 4 – 0.

One Year Conditional Use Renewal – Club Aviator – 5353 Dixie Highway

Mr. Bachman stated this facility is at the corner of Camelot and Route 4 and was approved by the Commission in February, 2012. At that time, a condition of approval was that it come back in a year for review and renewal. A memorandum was sent to the Commissioners from Sgt. Lagemann outlining his concerns and that of the Police Department. It was also sent to the manager and landlord of the facility.

Sgt. Lagemann reviewed his report with the Commission which is attached and made a part of these minutes. The report discussed meetings held with Christopher Clark, applicant, and problems that have occurred during the past year. It was the recommendation of the Police Department that the Conditional Use not be renewed for Club Aviator.

Christopher Clark, applicant, was in attendance but was ill so his father, Edward Clark, spoke on his behalf. A statement read by Edward Clark said that last year, Christopher had just gotten out of the navy and used his bonus money to open the Club. Things were slow but he put a lot of money into it. Inexperience, desperation and declining health led to changes. He needs this club as his source of revenue. Edward Clark said the club seems like it is going downhill. After a lot of the incidents,

Christopher hired more security to watch the parking lots, screen the patrons better and has tried to correct things that he and Sgt. Lagemann spoke about. It was a risky venture but it was something Christopher always wanted to do. Things don't always work out the way you plan them and he didn't want these things to happen. He put so much time and effort into the Club that his health is declining. There is potential in what he is trying to do and he is working to try to correct the problems. If it is shut down, he won't have a chance to prove the corrections he has made. He needs more time to turn the business around. If the permit is stripped away right now, he loses his initial investment and everything else he has put into it.

Mr. John Kokaliaries, owner of the property, said it is tough to get a business off the ground. Mr. Clark's approval was for a year but he didn't open until May. He is going through a learning experience and has invested a lot of money. He needs more time to get things going.

Chief Dickey stated that although the Police Department is empathetic to Mr. Clark's plight, there is an overriding concern. This decision is not about one individual and one business but about public safety. An extension will not make the bar viable. As long as the Chief could remember, there have been problems with bars at this location. The Police objected to start with and any future investment in this space as a bar is a waste of time, a detriment to the people in the area and a safety hazard to the police officers. Sgt. Lagemann adequately represented the police department's position and it was also Chief Dickey's position that the application not be renewed.

Scott Lepsky, seconded by Bill Woeste, made a motion that the Conditional Use Grant for Club Aviator be revoked immediately due to the multiple incidents cited in the report from the Police Department.

Motion carried 4 – 0.

Being no further business, the meeting adjourned.

Scott Lepsky, Chairman

Peggy Flaig, Clerk

Fairfield Police Department
Club Aviator Summary

1 Most of the bars that opened in the past at the 5353 Dixie Hwy #B location were
2 problematic with large fights, drug sales, firearm violations, prostitution, and liquor
3 permit violations. The last bar that opened, Fairfield Tavern, followed the same path and
4 after a lengthy investigation, hundreds of man hours, and multiple hearings, the bar was
5 closed by the Police Department. Other young potential bar owners approached the city
6 about opening another bar at the same location but were denied because of the history at
7 this property. Then the owner of Reruns For Wee Ones opened a used clothing store in
8 unit #B.

9
10 January 2012 – The retail clothing store located at 5353 Dixie Hwy #B closed. The
11 owner of the building, John Kokaliaries, proposed a new bar at the old Fairfield Tavern
12 location called Yiannis. The Police Department had concerns that Mr. Kokaliaries was
13 just obtaining a Conditional Use and a Liquor Permit for the property to make it more
14 attractive to future renters and he had no plans of actually opening a bar himself.

15
16 February 2012 – Mr. Kokaliaries said he had a change of plans and Chris Clark was going
17 to open Club Aviator at the location. On February 8, 2012 Mr. Clark appeared in front of
18 the Planning Commission to present his plans. Mr. Clark met with Police Department
19 and Planning Department personnel many times to discuss his plans. It was immediately
20 apparent that Mr. Clark, though well meaning, had no experience as a bar owner and his
21 business plan was questionable. Mr. Clark was advised many times of the past issues at
22 the location and advised of the Police Department’s reservations and concerns about
23 another bar opening at this address. Specific concerns were raised such as attracting a
24 problem crowd, fighting in the parking lot, control over employees, and giving control
25 over crowd type to promoters. Mr. Clark assured us he would follow his business plan
26 and he would not go the same route as past bars at this location, such as Fairfield Tavern.

27
28 February 2012 – Mr. Clark presented his plans to the Planning Commission. The same
29 specific concerns were raised by the Planning Commission members and Mr. Clark made
30 the same assurances on how he would run his business. Members also shared their
31 specific concerns about the potential success of Mr. Clark’s business plan but Mr. Clark
32 was determined to move forward.

33
34 Highlights from Mr. Clark’s business plan –

- 35 • “Our mission is to provide a classy, attractive, secure, clean, drug and worry free
36 environment...”
- 37 • “an alternative spot where people ages 21 and over can come...”
- 38 • “Originally our operating hours will be from 8:00 pm – 2:30 am Thursday-
39 Saturday.”
- 40 • “I will also be adding security cameras to all the main areas of the venue...”
- 41 • “I am well aware that disturbances are like a cancer that can quickly kill my
42 business and I will do everything in my power to not only protect the club...but
43 the neighboring businesses as well.”
- 44 • “John Kokaliaries...will be instrumental in our business development as a
45 successful establishment...Mr. Kokaliaries plans on making regular visits to check
46 on progress and business ethics...”

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Club Aviator Summary

- 47 • “The Aviator will feature Hip-Hop, Top 40, and a small mixture of old school
48 music.”
49 • “Community relations will also include staying in good standing with the
50 Fairfield Police Department and local government. That means we have to
51 conduct business ethically and legally. We will use all the resources available to
52 us to insure that we are operating within the laws.”
53

54 February thru April 2012 (estimated) – Mr. Clark was given a one year Conditional Use
55 Permit. Mr. Kokaliaries spent some time making the required building improvements.
56 Then Mr. Clark made improvements to the inside of the business.
57

58 April thru July 2012 - Mr. Clark opened Club Aviator. I spoke with Mr. Clark, either by
59 phone or in person, on a fairly regular basis and, per Mr. Clark, the crowds were smaller
60 than expected. As summer progressed, Mr. Clark said he was struggling to pay his bills
61 because business was slow. The Police Department had no issues at the bar during this
62 time.
63

64 July 2012 – I had been monitoring Club Aviator’s promotional fliers and I had noticed a
65 distinct change. It appeared that Mr. Clark had switched to using the same, or very
66 similar, ‘promoters’ that were used by Fairfield Tavern, who were targeting the same
67 problematic crowd. The fliers even contained the line, “Formally Fairfield Tavern” or
68 “The Old Fairfield Tavern”. I spoke to Mr. Clark who told me he had changed his
69 approach because he just was not making enough money. He said he was actively,
70 “seeking to draw the crowd from Memories”, which is a problem bar up the street that
71 attracted the same crowd as Fairfield Tavern. I reminded Mr. Clark, as I had done
72 several times before, the problems we had with Memories and their crowd, which is very
73 hard to control. I also reminded Mr. Clark of the problems that were sure to follow if he
74 took his bar in that direction. I advised Mr. Clark that he was following the same path
75 that Fairfield Tavern had followed which led to their demise. Mr. Clark said, “You have
76 to get some grass to grow before you can pull any weeds.” He said he knew it would be a
77 problematic crowd but he planned on getting a crowd in the bar to help pay the bills
78 THEN he would worry about kicking out the problem people and dealing with the
79 problems.
80

81 August 6, 2012 – Officers respond to a disorderly crowd in the lot of Club Aviator at
82 12:40 am. They took a report from a 17 year old that had her iPhone stolen while she
83 was getting beat-up. Officers stopped the suspect car which contained kids ages 19, 17,
84 15, and 14. Officers did an inspection and determined Mr. Clark was having a Teen
85 Night at his bar. Mr. Clark told the officers Sunday nights are his Teen Nights.
86

87 While investigating the Theft, officers spoke to a bar security employee who identified
88 himself as Brandon Johnson. The Aviator employee said he witnessed the fight and
89 witnessed a male black steal the phone. The bouncer refused to write out a statement
90 saying he did not want to get involved. It was later determined the bouncer lied about his
91 identity so officers did not have a witness to the fight or the theft.
92

Fairfield Police Department
Club Aviator Summary

93 (MEETING) August 7, 2012 – I, along with Mr. Bachman, met with Mr. Clark at the
94 Police Department. Mr. Clark claimed he did not know he was not allowed to operate a
95 Teen Club and said he would not do it again. I then spoke to Mr. Clark about his
96 promotional fliers. The fliers advertised “free shots to the first twenty customers” and
97 “half price drinks all night long”. Mr. Clark claimed that he did not know it was illegal.
98 I printed out copies of the applicable Ohio Administrative Code sections in 4301:1-1. I
99 advised Mr. Clark that it was a violation of his liquor permit to give away drinks and to
100 offer half price drinks after 9:00 pm (Happy Hour). Mr. Clark said he was also not aware
101 that he was required to keep a list of his regular drink prices and he had to be able to
102 produce that price list if requested by an OIU agent. I told Mr. Clark that any future
103 issues would be handled through enforcement action and/or would be used as evidence to
104 object to the renewal of his zoning permit in February.
105

106 September 8, 2012 – Officers were called to Club Aviator at about 1:00 am for a large
107 fight inside the bar, one subject possibly unconscious, where guns were possibly
108 involved. Officers found a male who had been assaulted that was just waking up and had
109 a shoe print on his forehead. A witness said the victim was on the dance floor and
110 another male, unprovoked, punched the victim. As the victim fell to the ground 10 to 15
111 of the offender’s friends surrounded the victim, kicking and stomping him as he laid on
112 the floor. Mr. Clark and Mr. Clark’s entertainment promoter said they both witnessed the
113 assault. The promoter said some of the offenders were rappers, and that he had contact
114 with their group on Facebook to promote the event, but he did not know their names.
115 Officers were concerned that the promoter brought a group of rappers to the bar, the
116 rappers beat up a patron, and the promoter did not know the rappers’ names.
117

118 September 8, 2012 – At about 1:40 am officers were trying to keep the peace after the
119 above fight. They found a highly intoxicated male in the parking lot that was threatening
120 to beat up people leaving the bar. The man was apparently the cousin of the victim of the
121 fight. The male was arrested for Disorderly Conduct.
122

123 September 16, 2012 – Officers were called to Club Aviator at 2:40 am for a female that
124 said a security employee of the bar threatened her with a handgun. The female said the
125 security employee told her to leave the bar for arguing. He then pulled a black handgun
126 out and threatened her. A second female was identified and she also claimed the same
127 security employee had threatened her with a gun. Mr. Clark told officers that nobody in
128 the bar had a gun. Officers told Mr. Clark about information received earlier in the
129 evening about a possible employee with a handgun and a pair of handcuffs stuffed in the
130 back of the waistband of his pants. Mr. Clark told officers it was probably his sound guy
131 who was filling in as security. When officers asked to speak to the sound guy Mr. Clark
132 said he was gone and he did not know the sound guy’s name. Officers obviously did not
133 believe Mr. Clark. Mr. Clark called the sound guy and let officers speak to him over the
134 phone. The male confirmed that he was the sound guy, he was filling in as security for
135 the night, and he had a handgun and handcuffs in his waistband. The male also
136 confirmed that he was wearing a plain shirt and had nothing on his clothing identifying
137 himself as security. Officers had concerns that an employee felt the atmosphere at the bar
138 was so dangerous that he needed to be armed. They were also concerned that a bouncer

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Club Aviator Summary

139 was walking the lot with a handgun in his pants, he had nothing that identified him as bar
140 security, and the officers were not made aware that the employees were armed.

141

142 (Mr. Clark called me the next day to try and explain what took place.)

143

144 September 30, 2012 – Sgt. Maynard responded for an alarm at Jiffy Mart at
145 approximately 4:00 am. He noticed Club Aviator appeared to still be open but the doors
146 were locked, which is a violation of their liquor permit. He was blocked by an employee
147 from doing an inspection, which is also a violation of the liquor permit.

148

149 (EMAIL) Sgt. Maynard wrote to me in an email, “I responded to the (Jiffy Mart) on
150 Camelot for an alarm on the rear door at around 0400 hours. Once I checked the front
151 doors and found them secure I walked over to check the hallway that runs between Club
152 Aviator and the (Jiffy Mart). I found that there was still a fairly large crowd at Club
153 Aviator and the doors were locked. I knocked on the door and an unknown male black
154 looked through a curtain that was blocking my view inside the club. He looked at me and
155 told me to wait. A short time later he opened the door and then blocked me from going
156 past the curtain. He told me to wait and called for the owner. The owner walked out a
157 few minutes later and told me that I could come inside. There were approximately 20
158 people inside that I could see and there were people sitting at the bar but I did not see any
159 alcohol. However with the amount of time they took to open the door and refusing to let
160 me inside they could have easily hidden any alcohol that was out. We were very busy
161 with calls for service and I did not have time to discuss the matter with the
162 owner. Would you please notify liquor control about this issue and address the owner as
163 you see fit? If you don’t mind tell him the next time one of his (employees) refuses to let
164 me in to inspect his bar I am going to arrest them for obstructing. I am headed down
165 shortly to see if I can find him and relay the message to him myself.

166

Thanks,

167

Sgt. Steve Maynard

168

Patrol Supervisor

169

Fairfield Police Department

170

171 (EMAIL) October 25, 2012 – Mr. Clark asked if he could rent Club Aviator out for teen
172 birthday parties. He said he would lock up the alcohol, have a DJ, and serve chips, water,
173 and pop. I told him I had reservations because an open invitation teen birthday party is
174 just a teen night which caused a large fight in his parking lot on a previous date. I spoke
175 to Mr. Bachman who advised that he thought renting the bar out for teen birthday parties
176 would be a violation of their conditional use permit and was not discussed as part of his
177 business plan in front of the Planning Commission.

178

179 October 28, 2012 – Officers called for twenty people fighting in the parking lot.
180 Hamilton Police Department officers had to be called for mutual aid to help clear the lot.

181

182 November 1, 2012 – Female had her purse stolen from the bar between midnight and
183 1:00 am. A stolen credit card from the purse was used at Speedway at 1:40 am for
184 \$75.00. Officers asked the Club Aviator manager if they could get a copy of the bar’s

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185 security video to help identify the offenders. The manager advised the bar does not have
186 surveillance video inside or outside the bar. The manager said he remembered the victim
187 of the theft and told officers the victim was “distracted for a long period of time face to
188 face with a male patron”, as if it was the victim’s fault her purse was stolen.
189

190 (EMAIL) I spoke with Mr. Clark after the 3rd Shift Sergeants raised concerns about Club
191 Aviator extending their hours and staying open until 4:00 am. I relayed my concerns to
192 Mr. Clark that he was going down the wrong path. I told him that it was my experience
193 that the old saying, “Nothing good happens after 2:30”, applies directly to after-hours
194 clubs. That is why almost all of the other bars close after 2:30 am. I explained that
195 although him remaining open after-hours was legal it was my opinion that he would have
196 issues with consumption after hours and disorderly crowds. I was especially concerned
197 with after-hours at his club because he was actively seeking to draw the “Memories
198 crowd” and our experience with Memories was their fights can quickly spiral out of
199 control. I also questioned Mr. Clark on how his club being open late was profitable
200 because he could not sell alcohol. He explained that he charges a high cover charge after
201 2:30 am and he attracts a lot of men who are looking for late night companionship. Mr.
202 Clark said he was aware of the potential problems but there was “money to be made” and
203 he thought he could make it work.
204

205 I told Mr. Clark, because he was keeping his club open after-hours, our officers would
206 probably be keeping a very close eye on his serving times because it is their
207 responsibility to enforce those laws. I suggested to Mr. Clark that he make last call early,
208 maybe around 1:50 am, and he should be absolutely sure all of the alcohol was off the
209 tables before 2:25 am or he ran the risk of facing charges for Consumption After Hours. I
210 explained to Mr. Clark that there could be no consumption of alcohol in his business after
211 2:30 am so he needed to be very attentive to patrons bringing in their own alcohol to
212 drink as that could cause him trouble with his permit. I also reminded Mr. Clark that
213 fighting in the parking lot by his patrons was still his responsibility so he needed to
214 control the late night crowds. Our conversation is summarized in the email below that I
215 wrote to Chief Dickey. (The email was sent on December 3rd but the conversation with
216 Mr. Clark was in mid-November.)
217

218 “The 3rd Shift Sergeants raised concerns over this business a few weeks ago after learning
219 that the bar was staying open until 4:00 am. At that time I spoke to the owner, Chris
220 Clark, who said his business had picked up since becoming an after-hours club. He said
221 he charges a ten dollar cover after 2:30 am and he attracts a steady flow of male patrons
222 looking to meet women before going home for the night. (I cleaned up Mr. Clark’s
223 comments for this email.) Mr. Clark also acknowledged that in general the business at
224 the bar had been picking up because he was drawing the crowd from Memories Sports
225 Bar up the street. I explained to Mr. Clark the possible legal problems associated with
226 operating after hours and steps he could take to minimize his liabilities...It was
227 predictable that Club Aviator was going to have problems given their hours of operation
228 and their target crowd. I attempted to arrange a meeting between the bar owner and Sgt.
229 Mays and Sgt. Maynard but scheduling conflicts have prevented that from occurring. I

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230 will check with the 3rd Shift Sergeants to see if they still think a meeting would be
231 beneficial or if we have passed that point.”

232
233 November 11, 2012 – Officers responded for a large fight in the parking lot of Club
234 Aviator at 3:02 am. The caller advised that someone threw a beer bottle and a window
235 was broken out during the fight. Officers from the Hamilton Police Department and the
236 Springdale Police Department had to respond for mutual aid to help clear the parking lot.

237
238 (EMAIL) Sgt Maynard sent me an email message about the fight listed above. He wrote,
239 “We responded to Club Aviator last night at 0300 for a large fight which required the
240 entire shift to secure and clear the lot. This is the second time we have had issues with
241 Club Aviator operating well after the normal closing time of other bars. When I
242 questioned the owner about it he said that they stopped serving at 0230 but remained
243 open for business. I know that they can stay open past 0230 as long as they stop serving
244 alcohol but since someone threw a beer bottle through a window at 0300 I find it hard to
245 believe that he is not serving alcohol. Also, why would a business want to continue to
246 operate when they are no longer generating revenue, every other bar in the city closes at
247 0230. I will add that my officers relayed to me that they have seen the parking lot full of
248 cars as late as 0400...I cannot imagine that he is operating the business as was promised
249 and it is only going to get worse. We have had problems with every bar that has been
250 there and it has continued with this one. Furthermore, the manpower on road patrol has
251 continued to diminish, we do not need to pull what limited resources we do have away
252 from other priorities to deal with a problem that we have the power to put a stop to. I will
253 however direct every available man hour I have to strictly enforce all laws in and around
254 Club Aviator until it is no longer a burden on my shift and this city.

255 Sgt. Steve Maynard
256 Patrol Supervisor
257 Fairfield Police Department

258
259 November 25, 2012 – Officers responded after a male called to report that someone
260 struck his car in the parking lot of Club Aviator and the offending vehicle fled the scene.
261 The caller chased the subject but lost him in the area of Symmes Road and By-Pass Rt 4.

262
263 December 1, 2012 – Mr. Clark had been warned several times about serving after hours.
264 Because the bar was staying open until 4:00 am, officers were doing a bar check at 2:35
265 am to be sure alcohol was not being served after hours. Officers saw patrons sitting
266 around a table with alcoholic beverages in front of them and one was starting to drink
267 from his beer. Mr. Clark was arrested for After Hours Consumption. The officer
268 reported, in reference to Mr. Clark, “I asked him to come outside with me. Once outside
269 I told Mr. Clark that I was arresting him for the permit violation of allowing someone to
270 consume alcohol after 2:30 am. He was very angry and told me that all the alcohol was
271 supposed to be gone from the patrons. I had him have a seat in my cruiser and when I got
272 into my cruiser I could smell a strong odor of alcohol coming from him. I asked him if
273 he had been drinking and he told me that he had a few shots with friends.” Mr. Clark
274 pled Not Guilty to the charge in Fairfield Municipal Court. After a hearing the Judge
275 found him Guilty and Mr. Clark was fined.

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276

277 December 1, 2012 – As one officer was arresting Mr. Clark (see above), the other officer
278 witnessed a fight in the parking lot. After some verbal warnings and urging to leave, one
279 male was arrested. The officer wrote in his report, “I arrested him. He turned toward me
280 several times as I handcuffed him. (Subject) repeatedly stated that he did not do
281 anything. He stated several times that he was only arrested because he was black and a
282 black man cannot get a break in Fairfield. He repeatedly stated that I cost him his
283 job. He was released on a summons for Disorderly Conduct.”

284

285 December 2, 2012 – Officers responded to Club Aviator for several fights, a male laying
286 on the ground unconscious, and a very large crowd that was out of control in the front lot
287 of Club Aviator at 2:03 am. Hamilton Police Department was called for mutual aid.
288 One officer’s report read, “When I arrived on scene, there were dozens of disorderly
289 subjects. I located a crowd around (Victim). (Victim’s) eyes were open but he was not
290 responsive. His body was limp. The crowd around him was screaming at police and
291 aggressive. Only Officer Lamb and I were there at this point and we could not give our
292 attention to just (Victim). A squad was en route but it wasn't getting there fast enough
293 according to friends/family. Hamilton PD had been requested for mutual aid. Fights
294 were breaking out in several locations of the lot. I had to divert my attention to a serious
295 assault involving a woman being hit by the car. When I returned to the area of the
296 original assault, the brother of (Victim), (Brother), was belligerent with me. He yelled
297 that we weren't doing anything to help and we can't solve anything. I tried to explain that
298 there were several fights and situations that needed my immediate attention. He was
299 getting in my space and screaming. I warned him repeatedly to back up. When he was
300 asked to tell us what happened, he responded by yelling profanities and telling us that it's
301 our job to figure it out. He offered no information to assist with an investigation
302 involving his brother. All he wanted to do was yell at the police. After several warnings,
303 he was pushed to a car by his friends after I warned him several times. (Victim's)
304 girlfriend was also quite belligerent with the police and squad members. She was upset
305 that they wouldn't let her ride in the squad. A man picked her up and carried her away
306 from us to a car. She continued to swing her arms and kick her legs while yelling at the
307 police. I have no information as to how (Victim) was assaulted or who may have done
308 it. I was unable to find a cooperative witness or find the time to take any
309 photographs. (Victim) was taken to University Hospital by squad.

310

311 December 2, 2012 – While on the lot of Club Aviator attending to the large disorderly
312 crowd and the unconscious male in the lot, officers witnessed a female speed through the
313 lot in her car and run down another female. The officer wrote, “I arrived at Club Aviator
314 after complaints of a large disorderly crowd, fights, and one male lying unconscious. I
315 observed a young black female yelling at a woman who was in a grey Nissan
316 Altima. The unknown woman was pointing and threatening the driver. The woman then
317 stood in front of the Nissan and was trying to call her out of the car to fight. I was
318 walking that direction when the driver of the Nissan, later identified as (Offender),
319 accelerated the car toward the woman. The woman went up onto the hood and the
320 roof. The vehicle continued to accelerate rapidly and recklessly through the parking
321 lot. The woman was clinging to hang onto the car. The disorderly crowd began to chase

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322 the car as well. At this point, I was sprinting across the parking lot trying to get to the
323 car. As I ran up next to the moving car, I struck the driver's window with my flashlight a
324 few times and yelled, "Stop the car!" The driver slammed on the brakes and the woman
325 went tumbling off of the car and onto the pavement. The driver then sped off. I chased
326 the car long enough to relay the license plate to the responding units along with a
327 direction of travel. Officer Michelle Brettin observed the vehicle turn onto Boehm Dr
328 and stopped the car. The driver was identified at that time as (Offender), by Ohio
329 OL. After I got dozens of disorderly subjects to leave the club parking lot, I was then
330 able to respond and speak with (Offender). (Offender) told me that she feared her
331 mother's car would be damaged so she wanted to leave quickly. I cited her for Willful /
332 Wanton Disregard of Safety. The "victim" in this case, left the area before speaking with
333 police.

334
335 (LETTER) December 4, 2012 – A letter was sent to Mr. Clark from Mr. Bachman with
336 documentation on the four calls for service referenced above.

337
338 (MEETING) December 6, 2012 – In response to the letter Mr. Clark requested a meeting
339 with Mr. Bachman. I also attended that meeting which was held at the City Building.
340 Mr. Clark tried to give explanations for the individual events that had occurred at his bar.
341 Mr. Bachman reiterated the points he stated in his letter. Mr. Clark said he would
342 consider making some changes at the bar to attempt to control the crowd. It was made
343 clear to Mr. Clark that significant modifications had to be made immediately to change
344 the direction his business had taken.

345
346 December 8, 2012 – Two days after our meeting, officers were in the area of Club
347 Aviator (at La Rosas) at 2:25 am preparing to do a bar check when they heard several
348 gunshots from the front parking lot. Officers were given the description of one of the
349 cars involved and stopped that car on Dixie Hwy. A gun was recovered and the
350 occupants claimed they were just shooting at a car load of people that were shooting at
351 them. The large disorderly and aggressive crowd in the lot after the shooting hindered
352 the officer's efforts while taking pictures and collecting evidence.

353
354 The officers wrote, "On 12/08/12 at or about 2:25am I was in the area of 5353 Dixie
355 Hwy, Club Aviator, for the closing of the business. I heard several gunshots from the
356 east end of the lot near Dixie Hwy. The employees at the front door advised that a tan
357 colored sedan, Camry type vehicle, just left south on Dixie Hwy believed to be the
358 offenders... I then observed two of the rear seat passengers turn around in the seat and
359 watch me as I turned onto Dixie Hwy behind them. I observed the rear seat passengers
360 moving around the vehicle and looking back at me.

361
362 I initiated a high risk traffic stop on the vehicle with PO Brettin. As other units arrived to
363 assist we detained the occupants. Once the vehicle was empty of occupants I observed a
364 spent .45 casing on the rear driver floorboard of the vehicle. I then located a loaded Hi-
365 Point .45 ACP behind the rear seat at the edge of the trunk. The firearm was facing the
366 passenger side of the vehicle port down. The passenger of the vehicle sitting behind the
367 driver was identified as (Offender). (Offender) was Mirandized and stated that he would

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368 take the charge for anyone in the car. He stated that if we needed to arrest anyone to
369 arrest him. One of the other occupants stated that they were shooting at another group of
370 people in the parking lot of the bar that were shooting at them. He refused to say who
371 fired the weapon from their vehicle.

372
373 The weapon located in the vehicle had an ejection port located on the right side of the
374 firearm. With finding the casing in the driver rear floor board along with the other
375 occupant's statements of shooting at another party in the lot, it is believed that the shots
376 were fired out of the driver rear window of the vehicle...Based on the totality of
377 circumstances (Offender) was arrested for CCW and improper handling of a firearm in a
378 motor vehicle. He was booked at FPD and transported to BCJ.

379
380 The firearm was loaded with one round in the chamber and three in the magazine. The
381 firearm and magazine were sent to MVRCL for operability testing. The rounds and
382 casing were placed in FPD property. PO Smith and Brettin returned to Club Aviator and
383 located several fresh.32 casings in the parking lot. Those were also placed into FPD
384 property.

385
386 December 8, 2012 – Just an hour after the shooting in the parking lot of Club Aviator a
387 juvenile was arrested in the parking lot. The officer wrote, “On 12-08-2012 at
388 approximately 3:25 am, I was in the parking lot of 5353 Dixie Hwy., Club Aviator, when
389 I observed a Ford Mustang parked near the front door of the business. The radio was
390 obscenely loud coming from this car and there was a single male black sitting in the
391 driver’s seat. I went over to tell him to turn down the music and I asked him for his
392 identification. He gave me an Ohio driver’s license that identified him as (Offender).
393 His birth date is 06/02/1995 which makes him only seventeen years old. He stated that
394 he was there with his brother, but none of males that came out to talk to him had the same
395 last name. The car's license plate returned to another male subject. I placed (Offender)
396 under arrest for the curfew violation. He was released a short time later to his
397 grandmother...”

398
399 December 15, 2012 – Officers responded to Club Aviator after the dispatcher received a
400 complaint of, “Several people are smoking marijuana in the bar at this time and the owner
401 knows about it.” Officers did not find people smoking in the bar but spoke to the owner.
402

403 December 25, 2012 – Officers responded to the bar at 3:18 am for, “at least 25 subjects
404 fighting inside and out”. As officers were dealing with fights and clearing the lot an
405 extremely intoxicated person was seen driving through the lot. He was arrested for
406 OMVI. The officer wrote, “On 12-26-2012 at approximately 3:18 am. Officers were
407 dispatched to Club Aviator in reference to a large fight supposedly taking place both
408 inside and outside the bar. When I arrived on the scene there were large groups of people
409 leaving the bar and wandering through the parking lot. There was also a lot of yelling
410 and screaming going on. As I drove through the lot, I observed a male subject lean out
411 the driver's door of a white car and throw up on the ground. I then turned my attention to
412 another group of people that appeared to be having a disagreement and when I
413 determined that they weren't going to get into a fight, I turned my attention back towards

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414 the area of the parking lot that the white car was parked in and observed it drive away.
415 The male that had thrown up was in the driver's seat. It drove through the parking lot in a
416 somewhat rapid pace toward the back of the bar. I followed it and as the driver noticed
417 me, he quickly pulled into parking space. I activated my overhead lights as he pulled into
418 the parking place indicating that I was stopping him. I walked up to the vehicle and the
419 driver rolled down the window. I could smell a very strong odor of alcohol coming from
420 the inside of the car. I asked the driver for his license and proof of insurance. He had
421 trouble determining what I was asking for. He had very slurred speech and glassy,
422 bloodshot eyes. He finally gave me his license and told me that his proof of insurance
423 was on his phone. His license identified him as (Offender). I asked him if he wanted to
424 step out of the car to take some tests and he said "no." I then informed him that he
425 needed to step out of the car as I was placing him under arrest for driving under the
426 influence. He opened the driver's door of the vehicle and there was puke running down
427 the inside of the driver's door and on the floor board next to the driver's seat.
428

429 December 26, 2012 – As PO Brettin was arresting the OMVI referenced above she had to
430 call for other officers because of a fight in front of the bar.
431

432 January 13, 2013 – Officers were called to Club Aviator for a complaint of people
433 smoking marijuana inside the bar. As they arrived they found a male in front of Reruns
434 For Wee Ones in and out of consciousness.
435

436 February 8, 2013 – Officers responded at 12:44 am for a report of two male blacks
437 smoking marijuana in the restroom of Club Aviator.
438

439 February 8, 2013 – Officers responded at 2:22 am for a report of a fight. The fight was
440 broken up by the time officers arrived.
441