

SUPPLEMENTAL

COUNCIL AGENDA: 03-20-07
ITEM: 11.3



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: March 16, 2007

Approved

Kay Winer

Date

3/19/07

COUNCIL DISTRICT: 3

SNI AREA: None

SUPPLEMENTAL

SUBJECT: PD06-015 / ABC06-014. APPEAL OF THE PLANNING COMMISSION'S ACTION TO DENY A PLANNED DEVELOPMENT PERMIT AND DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY TO ALLOW THE OFF-SALE OF ALCOHOLIC BEVERAGES IN A NEW RETAIL ESTABLISHMENT LOCATED AT 360 E. TAYLOR STREET ON THE SOUTH SIDE OF E. TAYLOR STREET BETWEEN 7TH AND 9TH STREETS.

REASON FOR SUPPLEMENTAL

Clarification of the Planning Commission and Planning Staff's recommendation for the subject project.

RECOMMENDATION

Adoption of a resolution to uphold the appeal of the Planning Commission's decision to deny the Planned Development Permit and Determination of Public Convenience or Necessity and make a finding that a significant and overriding public benefit will be served by the proposed use and approve the subject Planned Development permit.

OUTCOME

The City Council decision to uphold the appeal of the Planning Commission's decision to deny the Planned Development Permit and Determination of Public Convenience or Necessity would result in a new retail market operating on the subject site with alcoholic beverages in its inventory.

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ANALYSIS

Based on analysis of the required findings for a Determination of Public Convenience or Necessity for the off-sale of alcohol on the subject site, Planning staff was not able to recommend approval of the proposed use. In turn, the Planning Commission was also not able to make the required findings to approve the proposed use, specifically because the subject use was located within than 150 feet from a residentially zoned property. Therefore, the Planning Commission voted 7-0-0 to deny the proposed project, but recommended that the City Council use its discretion to consider approval of the proposal on the site given that the subject tenant space is located in a mixed-use building, which is appropriately designed for the proposed use. Planning Staff supports the Planning Commission's recommendation. Planning staff recommends that the City Council adopt a resolution to approve the proposed Planned Development Permit and Determination of Public Convenience or Necessity and make a finding that a significant and overriding public benefit will be served by the proposed use.

POLICY ALTERNATIVES

The City Council decision to uphold the Planning Commission's action to deny the Planned Development Permit and Determination of Public Convenience or Necessity would result in a new retail market operating on the subject site without alcoholic beverages in its inventory.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. Notices for the public hearings for the project and for this appeal were mailed to the owners and tenants of all properties located within 500 feet of the project site. Additionally, prior to the public hearing, an electronic version of the staff report has been made available online, accessible from the City Council agenda, on the City's website. Staff has been available to discuss the proposal with members of the public.

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney's office.

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FISCAL/POLICY ALIGNMENT

The proposed project is aligned with the Economic Development, Growth Management, and Sustainable City General Plan Major Strategies.

COST SUMMARY/IMPLICATIONS

N/A

BUDGET REFERENCE

N/A

CEQA

CEQA: Exempt, PD06-015 and ABC06-014


For JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Lesley Xavier at 408-535-7800.