



Memorandum

TO: HONORABLE MAYOR, CITY
COUNCIL, AND REDEVELOPMENT
AGENCY BOARD

FROM: Debra Figone
Harry S. Mavrogenes

SUBJECT: SEE BELOW

DATE: December 7, 2007

COUNCIL DISTRICT: District 3
SNI AREA: N/A

SUBJECT: ZONING OVERLAY FOR DOWNTOWN ENTERTAINMENT VENUES.

RECOMMENDATION

It is recommended that the City Council:

- (a) Reaffirm support for the existing Council Policy 6-23 for the review of new applications for Conditional Use Permits (CUPs) for entertainment uses in Downtown.
- (b) Direct the City Manager, in coordination with the Redevelopment Agency, to undertake the work plan itemized below and in the attachment and report back to the City Council with recommendations by June, 2008. The primary tasks of this work plan will include:
 - (1) A Study of the implications of developing zoning regulations, including a potential zoning overlay and/or zoning guidelines which identify preferred areas for entertainment uses and drinking establishments, as well as appropriate development and operational standards for such uses.
 - (2) Review and consider restructuring the permitting process, including CUPs and Special Use Permits (SUPs) for entertainment uses and drinking establishments, including night clubs, bars, and restaurants with entertainment to strengthen the City's ability to regulate for compliance.
 - (3) Review and recommend revisions to Council Policy 6-23 to ensure compatibility with Downtown's housing development and enhanced quality of life for Downtown residents.

OUTCOME

Revisions to existing land use regulations and administrative policies will improve the evaluation and approval process for CUPs and SUPs as well as the operational requirements for entertainment venues in the Downtown and enhance the Downtown's quality of life.

BACKGROUND

At the November 14, 2007, Rules Committee meeting, in response to a joint memorandum from Councilmembers Liccardo and Williams, staff was directed to develop a work plan to implement the following action items and report back to the City Council meeting on December 18, 2007:

1. Reaffirm support for Council Policy 6-23.
2. Direct the City Manager to fully implement the intent of Council Policy 6-23 for both new and existing CUPs in the Downtown.
3. Direct the City Manager to limit the length of time for CUPs in the Downtown to a term of two years.
4. Direct the City Manager and the Redevelopment Agency Director to jointly develop new Entertainment Zone Planning Guidelines for Downtown.
5. Return to City Council with specific recommendations no later than June 24, 2008.

Copies of the November 14 memorandum to the Rules Committee and Council Policy 6-23 are attached to a companion memorandum (supplement) entitled "Current Practice of Permitting Entertainment and Drinking Establishments."

Additionally, staff was directed to identify the current process for the consideration of CUPs for entertainment uses and drinking establishments and explain the renewal evaluation process.

On June 19, 2007, the Downtown Working Group provided the Council with a 60-Day Status Report containing various recommendations on ways to address its proposals for improving the nightlife experience downtown. Staff was directed to assess the necessary updates to the current policies for late night uses following work with the Downtown Working Group and conclusions from the Responsible Hospitality Institute (RHI) Hospitality Zone Assessment for Downtown. Those recommendations were as follows:

- Develop a pilot program for extended hours in the downtown Entertainment Zone
- Develop a program to license promoters
- Investigate implementing a moratorium on large liquor license (Type 48) clubs
- Review existing permitting policies
- Develop a contract with the RHI for a downtown hospitality zone assessment
- Increase parking garage security
- Review of on-street parking restrictions
- Develop transportation alternatives in late evenings

ANALYSIS

In order to address the recommendations identified at the November 14, 2007 Rules Committee meeting, it is recommended that staff re-evaluate Council Policy 6-23, as well as the existing permitting process and the zoning regulations and establish clear zoning regulations, including a possible zoning overlay to implement these regulations. Following outreach with the business community, housing developers and residents, staff should implement the work plan outlined below and detailed on the attachment and come back to Council before June, 2008 with the program and policy recommendations.

WORK PLAN:

A detailed work plan is attached. The proposed primary tasks include:

A. Council Policy 6-23

City Council Policy 6-23, Guidelines for Evaluation of Nightclubs and Bars, is the policy Planning staff uses when reviewing any application for an entertainment uses or drinking establishments citywide. This policy was first effective in June of 1991, and revised in February of 1993. Although the policy has not been revisited for over 14 years, the purpose and guidelines for review are still relevant. The purpose of the policy is to ensure that "the use conforms to City requirements and is compatible with its surrounding neighborhood." The guidelines include the following areas for review: land use compatibility, noise, parking, and garbage and litter. Additionally, the policy also includes typical use restrictions including but not limited to age restrictions, hours of operation, occupancy limitations, noise restrictions, and term limits.

Staff will revisit the Policy's guidelines on land use capability, noise, parking, garbage and litter, typical use restrictions and other requirements to ensure applicability to the current development environment and future growth plans. As part of the evaluation for revisions to this policy, staff will also review proximity limits to housing developments and maximum capacity restrictions for large alcohol-only (Type 48) venues.

B. Permitting Process

Supplemental to this memorandum is an informational memorandum from Planning Building and Code Enforcement explaining staff's efforts to implement Council Policy 6-23, the current process for the consideration of new and renewal of CUPs for entertainment uses and drinking establishments, and the processing of Entertainment Business Permits and Entertainment Ownership/Management Licenses.

Staff will review and consider restructuring the existing permitting process, including the CUPs and SUPs for entertainment uses, including night clubs, bars, and restaurants with an entertainment component to strengthen the City's ability to regulate for compliance.

C. Zoning Regulations

Staff will conduct a study to understand the implications of developing zoning regulations, which identify preferred areas for entertainment uses given the housing development projects currently under-construction and projects in the entitlement phase planned for Downtown. Staff will consider several approaches, including overlay zones, entertainment zones, design development guidelines and revisions to enhance Council Policy 6-23. Staff will conduct a number of meetings with focus groups consisting of stakeholders from the entertainment industry, housing developers, and residents.

EVALUATION AND FOLLOW-UP

City staff will return to the City Council with recommendations, coordinated with the Redevelopment Agency, by June 2008.

PUBLIC OUTREACH/INTEREST

The proposed action does not meet any of the criteria for added outreach efforts. The report will be posted on the City's and Agency's website and be made available for public review.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- Criterion 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.
- Criterion 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.

COORDINATION

This memorandum has been coordinated with the Department of Planning, Building and Code Enforcement, the Redevelopment Agency, the City Attorney's Office, and the Police Department.

COST IMPLICATIONS

At the June 19, 2007 City Council meeting, the City Council approved \$50,000 for Planning Building and Code Enforcement staffing for regulatory changes and noticing. Staff will use these funds to facilitate meetings and noticing for the proposed work plan.

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CEQA

Not Applicable



DEBRA FIGONE
City Manager



HARRY S. MAVROGENES
Executive Director

Attachments:

For questions please contact John Poindexter, Planning Official at 408-535-7800.

**Draft Work Plan
Downtown Entertainment Zone Overlay Zone
December 5, 2007**

I. Objective

Undertake a comprehensive review and update of Council Policy 6-23, Zoning Regulations governing and the Permitting Process for Entertainment Uses and Drinking Establishments in the Downtown Zone that elicits a community vision for how such uses should be integrated with other uses in the Downtown Core and achieves regulations for the Downtown Core that support that vision.

II. Community Outreach

The process for development of zoning regulations for entertainment uses and drinking establishments in the Downtown Core will engage stakeholders in a discussion of the vision for such uses with the Downtown Strategy as a starting point. Stakeholders will be engaged through the establishment of a focus group, which includes representation from:

- Chamber of Commerce
- Downtown Association
- Business community
- Development community
- Downtown residents

The focus group will be asked to provide input relating to the following areas:

- Confirmation of vision for Downtown Core
- Existing conditions which require review or remedy;
- Alternative approaches
- Recommended land use regulations
- Proposed development and operational standards

III. Milestones

a) Community Outreach Preparation and Data Gathering – Two Months

Identify existing stakeholder groups and form focus group to participate in the community outreach process. Prepare education materials for public outreach process. Document existing conditions and regulations. Begin to develop visual materials.

b) Community Outreach - Ongoing

- i) *Introduction and Education.* Meet with focus group and hold an initial community meeting to explain the process and provide basic information to equip attendees for future participation.
- ii) *Issue Identification.* Meet with focus group to identify key issues to be addressed through the process. Hold a community meeting to obtain feedback and identify any additional key issues. Key issues may include the following:
 - Number and concentration of uses
 - Hours of operation
 - Permitting and compliance review process
 - Compatibility with other land uses
- iii) *Alternative Analysis.* Based on staff analysis, provide input regarding alternative land use strategies.
- iv) *Public publicity.* As a part of their role, focus group members will provide a conduit for the dissemination of information to a broader range of interest groups in the greater Downtown area.

d) Analysis and Development of Strategies - Two Months

Based on results of focus group input, develop alternative strategies for addressing key issues.

e) Preliminary Recommendations to City Council/Agency Board – One Month

Based on results of focus group input, develop preliminary recommendations and present them to the City Council/Agency Board for direction.

f) Final Report to Council Committees and City Council – Three Months

If the direction from the Council/Agency Board indicates a preferred strategy, then this step would not be necessary.

If the direction from the Council/Agency Board requires additional study and community outreach, such work would be completed and staff would prepare a recommendation regarding final strategies. Take to Council

Committees and City Council/Agency Board for direction regarding preparation of a Draft Ordinance reflecting the final strategies.

g) Draft Ordinance, CEQA Review and City Council Decision – Four Months

Prepare draft regulations and draft ordinance; prepare Initial Study and Addendum to Downtown Strategy 2000 Environmental Impact Report (EIR) or Negative Declaration; circulate Draft Negative Declaration for public review (if Addendum to EIR is not prepared); and schedule Planning Commission and City Council/Agency Board hearings on draft ordinance. Planning Commission makes recommendation to City Council. City Council/Agency Board makes decision on ordinance (first and second reading). This schedule assumes an EIR Addendum or Negative Declaration.

IV. Schedule Comments

The proposed schedule reflects a conservative estimate of issues and steps and envisions a linear process which would allow staff the ability to concurrently undertake other work items, including but not limited to, streamlining the industrial provisions of the Zoning Ordinance; preparing a permanent secondary unit ordinance; completing zoning districts that accommodate high density housing and transit-oriented development without a Planned Development Zoning; and completing a form-based zoning district for the Alum Rock Neighborhood Business District.

Additionally, although this effort is focused on Downtown, much of the information gathered through this process could be utilized in a subsequent city-wide effort.