



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: March 17, 2010

COUNCIL DISTRICT: 3
SNI AREA: All

SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING PROVISIONS OF CHAPTER 20.70 AND 20.100 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO ESTABLISH THE CITY COUNCIL AS THE DECISION MAKING BODY FOR CONDITIONAL USE PERMITS FOR DRINKING ESTABLISHMENTS THAT OPERATE AFTER MIDNIGHT AND HAVE AN OCCUPANCY GREATER THAN 250 PERSONS WITHIN THE DC DOWNTOWN PRIMARY COMMERCIAL ZONING DISTRICT, AND FURTHER DIRECTION TO AMEND CITY COUNCIL POLICY 6-23 (GUIDELINES FOR EVOLUTION OF NIGHTCLUBS AND BARS).

RECOMMENDATION

The Planning Commission voted 6-0-1 (Platten absent) to recommend that the City Council approve the proposed ordinance to amend the provisions of Chapter 20.70 and 20.100 of Title 20 of the San Jose Municipal Code to establish the City Council as the decision making body for Conditional Use Permits for drinking establishments that operate after midnight and have an occupancy greater than 250 persons within the DC Downtown Primary Commercial Zoning District, and to direct staff to amend City Council Policy 6-23 (Guidelines for Evolution of Nightclubs and Bars).

OUTCOME

Approval of the proposed ordinance and direction on the proposed City Council Policy revisions are intended to encourage the development of diverse nightlife venues consistent with Downtown's housing development, the City's General Plan, the Downtown Strategy for Development and the Hospitality Zone Assessment.

March 17, 2010

Subject: Title 20 Amendment Establishing the City Council as the Decision Making Body for Drinking Establishments with Occupancy over 250 and After Midnight Operation in the DC Zoning District

Page 2

BACKGROUND

On March 10, 2010, the Planning Commission held a public hearing to consider the proposed ordinance amendments. The Director of Planning, Building and Code Enforcement recommended approval of the proposed ordinance changes. No one spoke in favor of, or in opposition to the proposed amendments and the Commission closed the public hearing.

Commission Zito asked for clarification on the intended process and if the Planning Commission would still be a part of the approval process for a Conditional Use Permit. The City Manager's Downtown Coordinator responded that the proposed process would still go to the Planning Commission for a recommendation to the City Council. Commission Kamkar expressed concern that this would hinder the City's ability to attract retail to the Downtown. The Downtown Coordinator responded that this new process simply dealt with Public Drinking Establishments. Commission Jensen and Cahan both expressed appreciate to staff for working with all downtown stakeholders and felt that City Council participation in this process was important.

The Planning Commission voted 6-0-1, Commissioner Platten absent, to recommend approval of the proposed ordinance amendments.

See additional background information in the attached memorandum from Joseph Horwedel, Director of Planning Building and Code Enforcement, to the Planning Commission, dated March 1, 2010.

ANALYSIS

See analysis in the attached memorandum from Joseph Horwedel, dated March 1, 2010.

POLICY ALTERNATIVES

See analysis in the attached memorandum from Joseph Horwedel, dated March 1, 2010.

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

HONORABLE MAYOR AND CITY COUNCIL

March 17, 2010

Subject: Title 20 Amendment Establishing the City Council as the Decision Making Body for Drinking Establishments with Occupancy over 250 and After Midnight Operation in the DC Zoning District

Page 3

Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

Public outreach for this proposal complies with the City Council's Public Outreach Policy. A public hearing notice for the proposed ordinance was published in the San Jose Mercury News and emailed to a list of business interests, neighborhood associations and community members. This notice included the Planning Commission and City Council hearing dates for the proposed ordinance revision. Staff has posted the hearing notice, staff report and draft ordinance on the Department's website and has been available to discuss the proposal with interested members of the public.

COORDINATION

Preparation of the proposed ordinance and this memorandum have been coordinated with the City Attorney's Office, the Redevelopment Agency and the Office of Economic Development.

FISCAL/POLICY ALIGNMENT

The proposed ordinance is consistent with the economic development goals of the San José 2020 General Plan and the goals of the San Jose Downtown Strategy 2000.

CEQA

Use of a Final EIR for the "San Jose Downtown Strategy 2000", adopted by City Council Resolution No. 72767 on June 21, 2005.


JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Lee Wilcox, Downtown Coordinator, at 408-535-8172.

Attachment