

Agenda Report

TO: CITY COUNCIL **DATE:** DECEMBER 10, 2001
FROM: CITY MANAGER
SUBJECT: MODIFICATION OF VARIANCE #11319, THE RAYMOND THEATER, AT
121-129 NORTH RAYMOND AVENUE

CITY MANAGER'S RECOMMENDATION:

It is recommend that the City Council after a public hearing:

- 1) Recertify the Raymond Theater Final Environmental Impact Report (FEIR) and certify the Addendum to the FEIR (Attachment A);
- 2) Adopt Revised Findings of Fact and the Statement of Overriding Considerations as contained in this report (Attachment B) to this Staff Report;
- 3) Adopt the mitigation monitoring program and adopt a de minimus finding as required by California Fish and Game Code 711.4(d)(1) and Title 14, California Code of Regulations Section 735.5(a)(3) as contained in the March 26, 2001 agenda report; and
- 4) Adopt the variance findings and conditions of approval contained in the March 26, 2001 Staff Report to the City Council and approve the proposed variances.

BACKGROUND:

On February 5, 2001, the City Council called for review Variance #11319 for the Raymond Theater project from the Board of Zoning Appeals ("BZA") and scheduled a hearing for March 26, 2001. The initial project heard by the Zoning Hearing Officer ("ZHO") consisted of only 8,000 square feet of retail, 61 units of housing with a multilevel parking garage within the auditorium of the theater. The applicant, AJB Enterprises modified the project to remove the parking garage and locate it under the theater prior to the case going to the BZA. The proposed project heard by the BZA consisted of a mixed-use project of 61 units and approximately 15,000 square feet of commercial space ("Modified Original Project"). It was proposed that the theater auditorium would be converted to commercial space with the lobby and second floor mezzanine preserved. A portion of the auditorium would be preserved between the front of the stage and the balcony. The balcony would be enclosed and converted to commercial use and the flyshaft at the back of the theater would be converted to residential units. Additional residential units would be constructed on the vacant parcel to the south while parking would be located both under the theater and within the new building to the south. Because of the significant impacts of this project, a Statement of Overriding Considerations was necessary before the proposed project could be approved.

At the March 26, 2001 City Council meeting, the City Council did not take action on the call for review of the Modified Original Project because a modified proposal was submitted by the partnership of Knell/O'Donnell. AJB Enterprises had agreed to allow the Knell/O'Donnell partnership time to develop the site with an alternative project. This alternative project consisted of restoration of the theater and continuance of its use as a performance venue (the "Alternative Project"). Knell/O'Donnell proposed to partner with a developer and identify financing to construct 61 units on the vacant parcel to the south and acquire the theater. The City Council's public hearing on March 26, 2001 considered the Alternative Project and was continued until June 18, 2001.

On June 18, 2001, the City Council certified the Raymond Theater EIR and approved the Alternative Project submitted by the Knell/O'Donnell Partnership. The Council certified the EIR for this project but did not adopt a Statement of Overriding Considerations because the Alternative Project did not require adoption of a Statement of Overriding Consideration.

The feasibility of the Alternative Project was contingent upon finding a developer to build the housing component on the vacant parcel to the south. However, the Knell/O'Donnell Partnership was unable to successfully find a residential developer for the vacant lot. AJB Enterprises has now requested that the City Council consider the Original Project reviewed by the Zoning Hearing Officer and the Modified Original Project reviewed by BZA and originally called for review by the City Council. The Zoning Hearing Officer and the BZA both conducted public hearings on the Original Project and the Modified Original Project where the public was allowed an opportunity to comment on the Original Project. There was significant public comment on the Original Project at the public hearings conducted by the Zoning Hearing Officer and the BZA. The proposed project now before the Council is exactly the same as the Original Project called for review by the City Council from the BZA. Since the Council approved the Alternative Project, modification of that approval is now needed in order to approve the Modified Original Project that was originally heard by the BZA.

Final Environmental Impact Report ("FEIR") Addendum

As part of this approval, the City Council is being asked to certify the FEIR as well as an Addendum to the FEIR. This Addendum was prepared in order to analyze the changes in the project that occurred prior to the Board of Zoning Appeals hearing for the Original Project. The changes in the Original Project made December 2000 consisted of an increase of approximately 15,000 square feet of commercial space as a result of the applicant's decision to preserve a portion of the interior of the theater. The Addendum to the FEIR is appropriate because the proposed revisions to the Original Project needed only minor technical changes or additions to the FEIR. The conditions described in the CEQA Guidelines calling for preparation of a subsequent EIR are not present. This conclusion is supported by substantial evidence identified within the FEIR and the Addendum. (Cal. Code Regs., Section 15162)

The Addendum concludes that there are: (1) no conditions that indicate the need for a subsequent EIR; (2) no new significant environmental impacts or mitigation measures; and (3) no new information has become available that would change the conclusions made in the revised FEIR.

Statement of Overriding Considerations and Findings of Fact

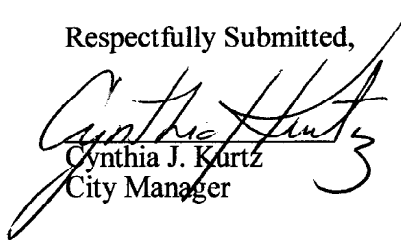
The Statement of Overriding Considerations and Findings of Fact were prepared for the March 26, 2001 hearing. These findings do not reflect the facts that have transpired since the City Council approved Variance #11319 authorizing the Knell/O'Donnell Partnership to proceed with the Alternative Project. Attachment B to this Staff Report is the modified Findings of Fact and the Statement of Overriding Consideration that take into consideration the facts that for the past six months an attempt has been made to preserve the theater and develop housing on the site, but that this failed because there have been no developers interested in building the

residential units. As such, the findings support that there are changed circumstances sufficient to justify modification of the Alternative Project approved on June 18, 2001.

FISCAL IMPACT:

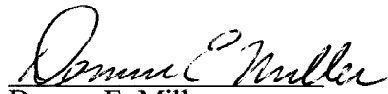
The fiscal impact of approving this project was analyzed in the March 26, 2001 Staff Report to the City Council and is attached to this Staff Report.

Respectfully Submitted,



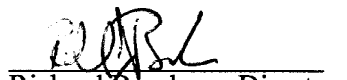
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