

Agenda Report

TO: CITY COUNCIL

DATE: March 25, 2002

FROM: CITY MANAGER

SUBJECT: REQUIRED FINDINGS AND CONDITIONS OF APPROVAL FOR TOMMY'S ORIGINAL HAMBURGER AT 162-180 NORTH HILL (CUP#3890)

RECOMMENDATION:

1. It is recommended that the City Council acknowledge that this action is categorically exempt from CEQA;
2. Consistent with the City Council action on March 11, 2002, adopt the required findings and conditions of approval to approve Conditional Use Permit #3890 to allow a Tommy's Original Hamburger at 162-180 North Hill Avenue.

BACKGROUND:

On April 12, 2001 an application was submitted for a Conditional Use Permit to allow a take-out restaurant with a drive-thru and 24-hour operation. Based on Starbucks' locating across the street while the application was pending hearing, it was determined that a variance would be required from the 500-foot separation between take-out uses. On November 7, 2001 the Zoning Hearing Officer heard the case and subsequently denied the application because the required findings could not be made. The case was appealed to the Board of Zoning Appeals, and on January 16, 2002 the decision of the Zoning Hearing Officer was upheld by a vote of 3-2.

On March 11, 2002 a public hearing was held by the City Council to review the application. At the public hearing the applicant voluntarily withdrew the request for 24-hour operation, and proposed hours of operation of 8:00 am to 10:00 pm Monday through Thursday, and 8:00 am to midnight Friday and Saturday.

The City Council heard public testimony from speakers both in favor and in opposition to the project. After closing the public hearing, the Council voted unanimously to approve the application and directed staff to prepare findings and conditions of approval for the proposed project.

ANALYSIS:

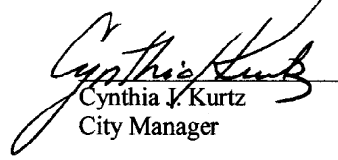
The required findings must be adopted for a conditional use permit to allow a take-out restaurant with a drive-thru, and a conditional use permit to allow extended hours of operation (beyond 10:00 p.m.). The applicant has withdrawn the 24-hour request, but proposes to be open until 10:00pm on weekdays (Sunday through Thursday) and midnight on the weekends (Friday and Saturday). The required findings must also be adopted for a variance to allow a take-out restaurant within 500 feet of another. A variance is required because Starbucks is located across the street from the subject site.

Conditions of approval must also be adopted for the proposed project. As directed by the City Council, staff has prepared recommended conditions for the project. Conditions 1-13 are standard conditions of approval and conditions that are required to bring the proposed project into compliance with the Zoning Code. Conditions 14-27 are additional conditions recommended by staff. Also attached are conditions of approval from the Public Works and Transportation Department. The recommended conditions will further mitigate any potential impacts the project may have on the surrounding area.

MEETING OF 03/25/2002

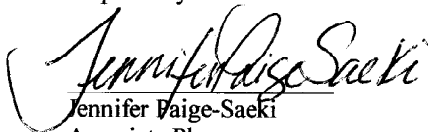
AGENDA ITEM NO. 7.B.(2)

Respectfully submitted



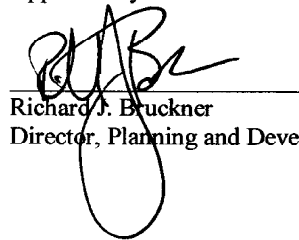
Cynthia J. Kurtz
City Manager

Prepared by:



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