



# STAFF REPORT

## SAUSALITO CITY COUNCIL

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**AGENDA TITLE** Subway Restaurant Appeal / 1907 Bridgeway/ CUP/EA 07-008

### RECOMMENDATION

Direct staff to prepare a resolution to either uphold or deny the appeal on the basis of Zoning Ordinance Section 10.44.240.D.

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### SUMMARY

Project site property owner and appellant Kenneth Niles has appealed the Planning Commission's denial of a Conditional Use Permit to establish a Subway Restaurant at 1907 Bridgeway and the Planning Commission's recommendation for City Council denial of an Encroachment Agreement for private use of eight parking spaces in the public right-of-way.

The appellant's appeal is based on the following issues (see **Attachment 1** for Appeal):

1. The appearance of the sandwich shop will not be obtrusive but instead will be unique and add to the eclectic ambiance desired by the Formula Retail stipulation. Subway has agreed to change the signage to wood, be externally lighted and not have the usual logo.
2. The formula Retail regulations do not state how over-concentration is defined. Although there would be two Formula Retail stores close to each other, they are both small and the only ones in a large area of the City. . . We feel that approval of this store would retain the desired balance of local, regional and national businesses.
3. At our initial June meeting, the planning commission staff recommended approval of the parking encroachment agreements and the City Engineer also supported to use of adjacent city parking spaces. After further analysis of the parking situation, we feel that limited parking time in the adjacent parking spaces could be an option and abundant long-term parking is available contiguous and across Bridgeway for public use.

### BACKGROUND

Section 10.44.240 of the Zoning Ordinance defines a "formula retail" establishment and requires a conditional use permit for operation of a formula retail establishment. In order to approve a formula retail establishment, the Planning Commission (or City Council on appeal) must make seven findings listed in the Zoning Ordinance (see **Attachment 2** for Zoning Ordinance formula retail regulations).

On June 11, 2008 the Planning Commission held a public hearing regarding the applicant's requests for two actions:

- Approval of a conditional use permit to operate a Subway restaurant (a formula retail establishment), to be located within a vacant tenant space at 1907 Bridgeway (APN 064-141-05); and

- Recommendation of City Council approval of an encroachment agreement for private use of eight parking spaces in the Bridgeway public right-of-way.

Following public testimony, the public hearing was continued to a date uncertain to allow the applicant additional time to consider the Commission's concerns relating to the formula retail regulations.

On January 14, 2009, the Planning Commission held a second public hearing and received public testimony. The Planning Commission considered seven public comments in support of the project, including a petition signed by 90 people and eight public comments opposing to the project. The supporters of the project commented that the Subway Restaurant would provide a convenient, healthy, and affordable food option. Additionally, the Subway restaurant is in walking distance from the Marinship area, where many businesses are located.

The opponents of the project suggested two formula retail businesses located in one building would be an over concentration and make the commercial building appear as a strip mall (the project site has three tenant spaces, one of which is an existing 7-11 convenience store), suggested the restaurant would have the potential to emit odors, and have concerns with the loss of public parking spaces. Lastly, a Subway restaurant could diminish opportunities for a similar local business.

The Planning Commission had mixed opinions regarding the project and application of the required formula retail findings which are summarized below. On January 14, 2009, the Planning Commission voted 4-1 (Bair -- No) to direct staff to prepare a resolution to deny the project. On January 28, 2009, the Planning Commission voted 3-1-1 (Bair – No; Stout – Absent) to approve Resolution No. 2009-06 which denied the Conditional Use Permit and recommended City Council denial of the Encroachment Agreement. See **Attachment 3** for the Planning Commission staff report; see **Attachment 4** for the Planning Commission Resolution No. 2009-06; and **Attachment 5** for the Planning Commission Minutes.

The Planning Commission's concerns of the project are summarized below:

**Support of Project:**

- The project site is in an in-obtrusive location.
- The visual impact of the location is less than other locations.
- The tenant space has been vacant for 2+ years.
- The parking for the use will be short term.
- The project could be designed to be unique to Sausalito and fit in with the character of the surrounding area.

**Opposition to Project:**

- The project would require private use of public parking spaces.
- The project would require large truck deliveries.
- Subway does not purchase their products locally.

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- The project would result in an over-concentration of formula retail establishments within Sausalito.
- The project would have a formula retail appearance.

## GROUNDINGS FOR APPEAL

On February 9, 2009 project site property owner Kenneth Niles filed an appeal of the Planning Commission's decision. The appeal listed three grounds which are summarized below in *italics*, followed by staff comments (see **Attachment 1** for appeal).

1. *"The appearance of the sandwich shop will not be obtrusive but instead will be unique and add to the eclectic ambiance desired by the Formula Retail stipulation. Subway has agreed to change the signage to wood, be externally lighted and not have the usual logo."*

Zoning Ordinance Section 10.44.240 (Formula Retail) states that the purpose of the provisions regarding design are:

- " . . . maintain the City's unique village character";
- " . . . preserving unique architecture, signage, graphic and other design elements so that the City maintains a distinctive visual appearance and small-scale eclectic ambiance will promote the long-term viability of the community's business districts."
- " . . . all permitted formula retail establishments shall create a unique visual appearance that reflect and/or complement the distinctive and unique historical character of Sausalito, and that no such establishment shall project a visual appearance that is homogeneous with its establishments in other communities".

The original application materials submitted by the applicant portrayed a standard plexi-glass Subway sign using the corporate white and yellow letters with a green background and downward facing lighting. (Since the original application package did not include a sign permit request, analysis of the signage materials was deferred until the applicant received approval of a conditional use permit for the formula retail use.) No other exterior improvements were proposed by the applicant. At meetings with the applicant between the June 11, 2008 and January 14, 2009 public hearings, staff encouraged the applicant to consider improvements to address the entire building in attempt to mitigate any deficient design and/or aesthetic concerns regarding the concentration of formula retail uses located at one project site (e.g., enhance the façade of the building with new siding and lighting, prepare a comprehensive sign plan showing unique signage for the uses). At the January 14, 2009 public hearing, the applicant submitted a revised design for the sign that would be different from the typical Subway signage. The revised signage would use a non-corporate lettering font, painted wood with gold leaf for the letters, and exterior lighting (see **Attachment 6** for revised signage). The revised signage was not evaluated by the staff or Planning Commission since a sign permit was not part of the applicant's request and the revised signage information was submitted at the Planning Commission meeting without prior staff review.

The applicant has not requested a Design Review Permit for modifications to the commercial center. However if such exterior façade improvements, site improvements, and non-standardized signage are provided there may be sufficient aesthetic improvements to support the granting of a conditional use permit to allow a formula retail establishment. In addition, there are opportunities for aesthetic improvements to the entire commercial center to reduce the "strip mall" appearance. The commercial building, which was constructed in the mid-1960's, has not been significantly remodeled.

On the basis of the information provided by the applicant and the purposes of the formula retail design provisions provided in Section 10.44.240, staff suggests the proposed project is contrary to the retail design provisions since the project does not provide a distinctive visual appearance, support a small-scale eclectic ambiance for the neighborhood, or support the City's unique village character. However, if the project were revised to include center-wide enhancements and aesthetics improvements to up-date the appearance of the building, staff would then suggest the project would be consistent with the retail design provision in Section 10.44.240.

2. *"The Formula Retail regulations do not state how over-concentration is defined. Although there would be two Formula Retail stores close to each other, they are both small and the only ones in a large area of the City. . . We feel that approval of this store would retain the desired balance of local, regional and national businesses."*

Zoning Ordinance Section 10.44.240 (Formula Retail) states:

"The City has also determined that preserving a balanced mix of local, regional, and national-based businesses maintain and promote the long-term economic health of visitor-serving businesses and small and medium sized businesses and the community as a whole. It is therefore the intention of the City that an over-concentration of formula retail businesses not be allowed, that all permitted formula retail establishments shall create unique visual appearance..."

Zoning Ordinance Section 10.44.240.D.2 (Formula Retail – Required Findings for Approval) states:

"The Formula Retail establishment will not result in an over-concentration of Formula Retail establishments in its immediate vicinity or the City as a whole."

The following formula retail establishments are located within the City. All of these establishments were all established prior to adoption of the City's formula retail regulations in 2003.

- Fed Ex/Kinko's
- UPS
- Mollie Stone's Market
- 7-11 convenience store
- Starbucks
- Benetton
- Crazy Shirts



When reviewing this issue, the Planning Commission determined the location of a Subway restaurant in the subject commercial center would be an over-concentration of formula retail uses (see Finding B of Resolution 2009-06, **Attachment 4**). The project site consists of a 5,000 square feet commercial building with three tenants. The existing tenants which occupy the building are a formula retail 7-11 convenience store and a local laundry facility. The subject third tenant space is vacant. With the addition of the proposed Subway restaurant, two-thirds of the commercial center would be occupied by formula retail establishments, which would appear to be an over-concentration.

3. *"At our initial June meeting, the planning commission staff recommended approval of the parking encroachment agreements and the City Engineer also supported to use of adjacent city parking spaces. After further analysis of the parking situation, we feel that limited parking time in the adjacent parking spaces could be an option and abundant long-term parking is available contiguous and across Bridgeway for public use."*

Zoning Ordinance Table 10.41-1 establishes parking requirements for various retail and service land uses. The subject tenant space is changing from a former hair salon to a restaurant which has a larger parking requirement. Zoning Ordinance Section 10.40.110.A.6 states that whenever the site is changed to a more intensive use, additional parking spaces are required to be provided to accommodate the use. Currently 11 parking spaces are provided on site. With the proposed Subway restaurant, 18 parking spaces must be provided. As a result, the applicant must provide 7 additional spaces.

In order to address this shortfall, the applicant requested City Council approval of an encroachment agreement to allow use of the 8 parking spaces located behind the bus shelter east of the project site. These parking spaces are located in the public right-of-way for Bridgeway. Zoning Ordinance Section 10.56.010 (Encroachment Review and Agreements), allows parties to request City authorization for permanent and/or semi-permanent encroachments onto public lands, easements and right-of-ways of the City for private use. Section 10.56.060 stipulates findings the City Council must make in order to approve such encroachments. The appellant's request would involve commit the 8 public parking spaces for the exclusive use of the Subway restaurant and commercial center. Currently the 8 parking spaces are neither restricted to any specific time limits above those stipulated in the *Municipal Code*, nor restricted by a neighborhood parking sticker program. Based on observations, the appellant suggests that many of the parking spaces are utilized for long term (greater than 24 hours) parking. The appellant is requesting the City Council to impose limited parking times based on the existing long term parking conditions of the public parking spaces.

The Planning Commission reviewed the Encroachment Agreement request and determined that that the use of 8 public parking spaces would adversely affect the availability of the public parking spaces and create an undesirable land use precedent due to the following reasons:

1. The public parking spaces are well used by the public to support surrounding land uses related to the existing commercial and residential land uses in the neighborhood.
2. Since the public parking spaces are well used, the additional parking demand generated

by the proposed formula retail establishment will result in additional parking impacts on the limited number of parking spaces in the existing residential neighborhood.

3. The loss of the public parking spaces for the exclusive use of the Subway restaurant will negatively impact adjacent businesses in the neighborhood.

Furthermore, the record shows that public testimony and correspondence was received from residents and property owners within the Easterby and Spring Street neighborhood. The public testimony includes reference to concerns regarding the potential parking impacts related to the use and the loss of the eight public parking spaces and that the private use of the public parking spaces will exacerbate the congested neighborhood parking conditions.

An issue that was not raised during the Planning Commission public hearings is that even if the City Council decides to approve an Encroachment Agreement, the Zoning Ordinance does not allow parking spaces in the public right-of-way to be credited toward the parking requirements of the land uses. Zoning Ordinance Section 10.40.120.B.2 allows off-site parking subject to a conditional use permit. However, this provision only applies to parking spaces located in separate lots; not parking spaces located in the public right-of-way. Therefore, the applicant would need to obtain approval of a variance in order for to deviate from the parking standards by using parking spaces in the public right-of-way to satisfy the project's parking requirement.

#### **APPEAL PROCESS -- NEXT STEPS**

If the City Council determines the appeal can be upheld, then the following steps will be required:

1. Direct staff to prepare a resolution upholding the appeal
2. Remand the project to the Planning Commission to:
  - a. Set conditions of approval for the retail formula business establishment;
  - b. Review a variance to allow the project's parking requirements to be met by parking spaces in the public right-of-way; and
  - c. Separately the Planning Commission will need to review and act upon a sign permit for the project.
3. Separately, the Planning Commission will need to review and act upon a sign permit for the project. The City Council may suggest that the applicant provide a comprehensive sign plan for the entire building in order to provide a unique commercial center appearance. The City Council may also suggest that the applicant consider providing upgrades to the façade of the building.

If the City Council is unable to make the findings to support the appeal, then staff should be directed to prepare a resolution of denial.

#### **PUBLIC CORRESPONDENCE**

Correspondence received since the January 28, 2009 public hearing is provided as **Attachments 7 – 11**. Correspondence submitted after the writing of this staff report will be posted on the City's website (<http://www.ci.sausalito.ca.us/>) and available at the City Council public hearing.

Subway/CUP/EA 07-008  
1907 Bridgeway

**STAFF RECOMMENDATIONS**

Staff recommends the City Council direct staff to prepare a resolution to either uphold or deny the appeal of the basis the formula retail findings in Zoning Ordinance Section 10.44.240.D.

If the City Council upholds the appeal, the City Council should also remand the project to the Planning Commission to set conditions of approval for the retail formula retail establishment and review a variance to allow the project's parking requirements to be met by parking spaces within the public right-of-way.

Alternatively, the City Council may continue the public hearing to allow the applicant and/or staff to provide additional information for the City Council.

**ATTACHMENTS**

1. Appeal, date-stamped February 9, 2009
2. Formula Retail Regulations (Zoning Ordinance Section 10.44.240)
3. Planning Commission Staff Report dated January 14, 2009
4. Planning Commission Resolution No. 2009-06
5. Planning Commission Minutes dated January 14, 2009 and January 28, 2009 [excerpts]
6. Revised Signage Concept date-stamped March 11, 2009
7. Bruce Huff letter, date-stamped March 10, 2009
8. Ken Niles letter, date-stamped March 11, 2009
9. Sonja Hanson email, date-stamped March 18, 2009
10. Sandy List email, date-stamped March 18, 2009
11. Amy Novesky email, date-stamped March 18, 2009

REPAIRED BY:

  
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Heidi Burns, AICP  
Associate Planner

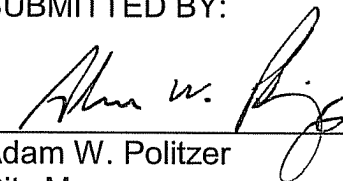
REVIEWED BY:

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Jeremy Graves, AICP  
Community Development Director

REVIEWED BY:

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Mary Wagner  
City Attorney

SUBMITTED BY:

  
\_\_\_\_\_  
Adam W. Politzer  
City Manager

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CITY OF SAUSALITO  
APPEAL OF PLANNING COMMISSION DECISION  
OR HISTORIC LANDMARKS BOARD DECISION

Community Development Department  
420 Litho Street  
Sausalito, CA 94965  
415.289.4128 / 415.339.2256 (Fax)

RECEIVED  
FEB 9  
CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

Appellant's Name Kenneth Niles Day Phone 707 938-5616

Appellant's Address P.O. Box 298 Sonoma, CA 95476

Appellant's Email Address gailjohnson@vom.com

Appellant's interest in the project (e.g., applicant, neighbor, etc.) owners

Appellant's Signature *Kenneth Niles*

Project Name and No. Subway CUP/EA 07-008

Project Address 1907 Bridgeway, Sausalito 94965

Date of Decision (Appeal must be filed within 10 calendar days) January 28, 2009

Specify the grounds of the appeal (Additional sheets may be attached, if necessary)

See Attached

AP No. \_\_\_\_\_

Date Received Stamp

Fee Paid \$ 2587

Receipt Number 69704

Accepted By *HR*

RECEIVED  
FEB 9 2009  
CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

Attachment 1  
(2 pages)

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FEB 9 2009

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

Appeal for 1907 Bridgeway, Sausalito

The appearance of the sandwich shop will not be obtrusive but instead will be unique and add to the eclectic ambience desired by the Formula Retail stipulation. Subway has agreed to change the signage to wood, be externally lighted and not have the usual logo. The sign and store are also difficult to see from Bridgeway. The interior would also be different from any of their other stores and designed in a manner befitting its presence in Sausalito. Three of the Planning Commissioners evidently felt, contrary to the resolutions, that this part of the Formula Retail was not a factor.

The Formula Retail regulations do not state how over-concentration is defined. Although there would be two Formula Retail stores close to each other, they are both small and the only ones in a large area of the city. At least one of the Planning Commissioners that voted against this application (and possibly others) felt that he/she had to vote against it because of the way the regulation was written but felt that this was unfair. We feel that approval of this store would retain the desired balance of local, regional and national businesses.

At our initial June meeting, the planning commission staff recommended approval of the parking encroachment agreement and the City Engineer also supported the use of adjacent city parking spaces. After further analysis of the parking situation, we feel that limited parking time in the adjacent parking spaces could be an option and abundant long-term parking is available contiguous and across Bridgeway for public use.

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#### 10.44.240 Formula Retail

- A. Purpose.** The purpose of the standards in this Section regulate the location and operation of the formula retail establishment in order to maintain the City's unique village character, the diversity and economic vitality of the community's commercial districts, and the quality of life of Sausalito residents. The City has determined that preserving unique architecture, signage, graphic, and other design elements so that the City maintains a distinctive visual appearance and small-scale eclectic ambiance will promote the long-term viability of the community's business districts. The City has also determined that preserving a balanced mix of local, regional, and national-based businesses and small and medium sized businesses and the community as a whole. It is therefore the intention of the City that an over-concentration of formula retail businesses not be allowed, that all permitted formula retail establishments shall create a unique visual appearance that reflect and/or complement the distinctive and unique historical character of Sausalito, and that no such establishment shall project a visual appearance that is homogenous with its establishment in other communities.
- B. Applicability.** "Formula Retail" means a type of retail sales activity or retail sales establishments, including food service, which is required to maintain any of the following: standardized ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, sign, décor, architecture, layout, uniform, or similar standardized feature. "Service Stations" as defined in Zoning Ordinance Chapter 10.88 are exempt from these formula retail provisions.
- C. Conditional Use Permit Required.** A Conditional Use Permit shall be required for any Formula Retail establishment in the City.
1. A Formula Retail Establishment may be allowed only in the Central Commercial, Shopping Center, and Neighborhood Commercial District and only with a Conditional Use Permit;
  2. The expansion of an existing Formula Retail establishment shall require a Conditional Use Permit if the establishment does not already have Conditional Use Permit.
  3. The cumulative expansion of a permitted Formula Retail establishment by 500 or more square feet of floor area shall require a Conditional Use Permit amendment; and
  4. A Formula Retail establishment shall fully comply with all applicable regulations of this Code including Design Review.
- D. Required Findings of Approval.** In addition to all of the findings required by Section 10.60.070, all of the following findings must be made prior to the issuance of a Conditional Use Permit for a Formula Retail establishment:
1. The Formula Retail establishment will be compatible with existing surrounding uses, and has been designed and will be operated in a non-obtrusive manner to preserve the community's distinctive character and ambiance;

Attachment 2  
(2 pages) 5A  
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2. The Formula Retail establishment will not result in an over-concentration of formula retail establishments in its vicinity or the City as a whole;
3. The Formula Retail establishment will promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations;
4. The Formula Retail establishment will contribute to an appropriate balance of local, regional or national-based businesses in the community;
5. The Formula Retail establishment will be mutually beneficial to and would enhance the economic health of surrounding uses in the district;
6. The Formula Retail establishment will contribute to an appropriate balance of small, medium, and large-sized businesses in the community; and
7. The proposed use, together with its design and improvement, is consistent with the unique historic character of Sausalito, and would preserve the distinctive visual appearance and shopping experience of Sausalito for its residents and visitors.

# STAFF REPORT

## SAUSALITO PLANNING COMMISSION

**PROJECT:** Subway Restaurant / 1907 Bridgeway CUP / EA 07-008

**MEETING DATE:** January 14, 2009

**STAFF:** Heidi Burns, Associate Planner **HB**

**APPLICANT:** Chirayu Patel

**PROPERTY OWNER:** Gail Johnson on behalf of the Niles Company

### REQUEST

The applicant, Chirayu Patel requests Planning Commission approval of a Conditional Use Permit to convert a portion of an existing commercial retail building at 1907 Bridgeway (APN 064-141-05) into a Subway Restaurant and a Planning Commission recommendation to the City Council for approval of an Encroachment Agreement to allow for use of eight parking spaces within the City's public right-of-way.

### REGULATORY FRAMEWORK

**ZONING:** Commercial Neighborhood (CN)

**GENERAL PLAN:** Neighborhood Commercial (Spring Street Valley Planning Area)

**PERMITS REQUIRED:** Conditional Use Permit (SMC Section 10.60.50).  
Encroachment Agreement (SMC Section 10.56)

**ENVIRONMENTAL REVIEW:** Exempt per Section 15303(c) of the CEQA Guidelines, New Construction or Conversion of Small Structures

**SUBJECT PARCEL:** The property is located on the west side of Bridgeway at its intersection with Easterby Street. The subject parcel is 12,000 square feet in area and contains one commercial structure.

The 5,120-square foot structure currently contains 7-Eleven (1901 Bridgeway), Coin Laundry / Village Cleaners (1905 Bridgeway), and a vacant unit (1907 Bridgeway). The proposed project would convert approximately 1,243 square feet of tenant space in the northern portion of the building into a restaurant use.



**NEIGHBORHOOD:**

A residential neighborhood is located to the west and south of the project site. Nearby parcels along Bridgeway to the north contain similar small-scale neighborhood commercial services, including another restaurant, nail salon, and offices. The Industrial Marinship area is located to the east.

**BACKGROUND**

The project site was originally approved as a 5,000 square feet commercial building with three tenant spaces. The original uses located in the building consisted of the 7-11 Food Store, a Launderette, and Orchid Dry Cleaners. Throughout time many commercial tenants ranging from beauty salons to dry cleaners have been located within the neighborhood commercially zoned building. The previous tenant of the subject tenant space was a beauty salon (leased for five years). The space has been vacant for approximately two years since the beauty salon ceased its operation.

**PROJECT DESCRIPTION**

On November 12, 2007, the applicant, Chirayu Patel, submitted an application for tenant improvements to allow a Subway restaurant to be located within the subject commercial building. The 1,294-square foot Subway restaurant, a Formula Retail franchise, would consist of the following as shown on the project plans:

- Approximately 230 square feet of dining area;
- Five tables with fixed seating for 12 customers;
- ADA compliant entry and parking space;
- "Tuscany" scheme interior décor;

Although the applicant has not submitted a formal Sign Plan application and fees, the applicant has provided signage details which consist of plexiglass lettering in the company's logo colors: yellow, white, and green (see **Exhibit A**). Similar to existing signage for the 7-Eleven and Village Cleaners, the letters for the Subway sign are approximately two feet in height with a total area of approximately 16 square feet. Staff will require a formal sign application and fees to be paid as a condition of approval for the project.

Existing up-facing lighting fixtures are proposed to be replaced by down-facing, fixtures for sign illumination. Existing lighting fixtures at the 7-Eleven include fluorescent tube lighting while Village Cleaners has no external lighting.

The applicant has indicated that the Subway restaurant would cater primarily to local residents and employees of the Caledonia / Bridgeway business corridor as well as commercial / industrial uses in the nearby Marinship. The restaurant intends to serve sandwiches, salads, and breakfast items from 8:00 AM to 9:00 PM.

During the preliminary review of the application at a staff level, the City Engineer reviewed the improvements which resulted in project revisions to bring the existing trash enclosure into

compliance with current stormwater regulations (i.e., through the use of a roof and metal gate) and to create an ADA-compliant parking space and entry to the establishment (see **Exhibit B**). Revised plans were submitted on March 4, 2008.

### **PRIOR PLANNING COMMISSION REVIEW**

On June 11, 2008, a Conditional Use Permit and Encroachment Agreement request were reviewed by the Planning Commission to allow the Subway restaurant and to allow the use of the City's parking area located east of the commercial building. Three Planning Commissioners were present for the discussion (see **Exhibit C** for the draft minutes). Concerns raised at the meeting included:

- The location of a restaurant in the commercial building was appropriate, however, there was no agreement on the appropriateness of a Formula Retail restaurant.
- If the Formula Retail franchise is located in the building, then the building might become a strip mall.
- The Formula Retail franchise would remove commercial space that could be occupied by a local non-franchise business.
- A parking agreement could be supported.

In general the Planning Commission expressed concerns regarding application of the Formula Retail provisions of the Zoning Ordinance. As such, the Commission continued the application to a date uncertain in order to allow the applicant additional time to consider the Commission's concerns and to allow the review of the application by a full Commission.

Succeeding the Planning Commission public hearing, the applicant, architect, property owner, property manager, and staff held multiple meetings and discussed design option for the extension of the commercial building. Staff suggested the applicant explore updates of the building façade, lighting, and signage for the subject tenant space as well as the entire commercial building. The applicant declined to make any exterior changes other than those originally proposed and requested the project return to the Commission.

### **General Plan Consistency**

To approve the proposed project the Planning Commission must determine that the project is consistent with all applicable General Plan policies. Staff has identified the following and policies as most relevant to the proposed project:

***Policy CP-1.5. Encroachments. Manage encroachment of public street rights-of-way by private development.***

***Policy LU-2.13 Neighborhood Commercial Uses. Promote only those uses that will increase the diversity and economic viability of local neighborhood commercial areas that serve immediate neighborhoods.***

The proposed restaurant would be compatible with and appropriately located within existing commercial uses in the Commercial Neighborhood District in the Spring Street Valley

Planning Area. The subject parcel is located on Bridgeway is close to mass transit, pedestrian and bicycle corridors. It is staff's opinion that the granting of approval for the Encroachment Permit is consistent with the intent and provisions of the Zoning Ordinance.

**ZONING ORDINANCE CONSISTENCY**

The project is located in the CN District, which is intended to provide local-serving retail and service businesses in a location and manner that serves nearby commercial and residential areas as well as one-stop convenience services in the three distinct neighborhood commercial centers. Restaurants require a Conditional Use Permit as specified in Zoning Ordinance Section 10.24 (see Table 10.24-1).

The following table summarizes the project's compliance with the applicable development requirements of CN District:

**Project Summary Table**

	Existing	Required	Proposed	Compliance
Parcel Area:	12,000 sq. ft.	5,000 sq. ft.	No Change	Yes
Land Use:	Vacant	Restaurant requires CUP <sup>1</sup>	Restaurant	Yes, with approval of a CUP. Formula Retail provisions apply.
Parking:	11 off-street spaces including one ADA compliant parking space. 8 additional parking spaces in public right-of-way.	Restaurant requires 7 spaces (3 spaces at 1 space per 4 fixed seats plus 4 spaces at 1 space per 60 square feet of dining area.)	19 spaces for all uses: 7 spaces for Subway; 4 spaces for Cleaners; 7 spaces for 7-Eleven; 1 extra parking space available for all uses within the commercial building.	Requires approval of an Encroachment Agreement to use 7 parking spaces in the public right-of-way. The City Council may authorize an additional parking space, although the parking space is not required by the Zoning Ordinance for the uses located on site.

<sup>1</sup> As specified in Table 10.24-1 (Permitted Uses) of Chapter 10.24 (Commercial Uses)

**Land Use**

Restaurants in the CN District require a Conditional Use Permit (CUP). Additionally, in accordance with Section 10.44.240 of the Zoning Ordinance, "Formula Retail"

establishments require a Conditional Use Permit and certain findings must be made. Section 10.44.240.B states that:

*"Formula Retail means a type of retail sales activity or retail sales establishment, including food service, which is required to maintain any of the following: standardized ("formula") array of services and / or merchandise, trademark, logo, service mark, symbol, sign, decor, architecture, layout, uniform, or similar standardized feature."*

Examples of Formula Retail establishments currently in Sausalito include Starbucks and Fedex/Kinkos.

The purpose of the Formula Retail standards is as follows pursuant to Section 10.44.240.A:

*"to regulate the location and operation of Formula Retail establishments in order to maintain the City's unique village character, the diversity and economic vitality of the community's commercial districts, and the quality of life of Sausalito residents. The City has determined that preserving unique architecture, signage, graphic and other design elements so that the City maintains a distinctive visual appearance and small-scale eclectic ambiance will promote the long-term viability of the community's businesses districts. The City has also determined that preserving a balanced mix of local, regional, and national-based businesses and small and medium sized businesses will maintain and promote the long-term economic health of visitor-serving businesses and the community as a whole. It is therefore the intention of the City that an over-concentration of formula retail businesses not be allowed, that all permitted formula retail establishments shall create a unique visual appearance that reflect and/or complement the distinctive and unique historical character of Sausalito, and that no such establishment shall project as visual appearance that is homogenous with its establishments in other communities".*

In order to approve a conditional use permit to allow the Subway restaurant franchise, the Planning Commission must determine whether the proposed project is in conformance with the general conditional use permit findings listed in Section 10.60.050, as well as the specific Formula Retail findings (Section 10.44.240.D) as listed below:

1. The Formula Retail establishment will be compatible with existing surrounding uses, and has been designed and will be operated in a non-obtrusive manner to preserve the community's distinctive character and ambiance;
2. The Formula Retail establishment will not result in over-concentration of formula retail establishments in its immediate vicinity or the City as a whole;
3. The Formula Retail establishment will promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations;
4. The Formula Retail establishment will contribute to an appropriate balance of local, regional or national-based businesses in the community;

5. The Formula Retail establishment will be mutually beneficial to and would enhance the economic health of the surrounding uses in the District;
6. The Formula Retail establishment will contribute to an appropriate balance of small, medium, and large-sized businesses in the community; and
7. The proposed use, together with its design and improvement, consistent with the unique historic character of Sausalito and would preserve the distinctive visual appearance and shopping experience of Sausalito for its residents and visitors.

Upon review of the proposed Conditional Use Permit to allow both a restaurant and a Formula Retail restaurant, there are both positive and negative aspects associated with the project. The positive aspects associated with the project are as follows:

1. The Subway restaurant provides an additional food option (breakfast, lunch, and dinner) for persons that work and/or live in the vicinity of the establishment.
2. The use will be located in a tenant space which has been vacant for over two years, thereby bolstering the economic vitality of the immediate commercial area.
3. The restaurant will provide additional sales tax revenue to the City, which will add to the City's economic health.
4. Name recognition that will attract patrons.

The negative aspects associated with the project are as follows:

1. The restaurant will not have a unique visual appearance. The Subway restaurant franchise has distinctive logos and trademarks. The visual appearance of the restaurant will be homogenous with Subway restaurants in other communities, which is contrary to the stated purpose of the Formula Retail regulations.
2. The project site is within close proximity to similar food options (i.e., 7-11 and Fred's). Caledonia Street, which is within walking distance also provides similar food options.
3. The restaurant does not offer a unique and distinctive shopping experience for its residents and visitors as suggested in the Formula Retail findings.
4. The location of two Formula Retail franchises within one building may appear as an over-concentration of Formula Retail establishments in its immediate vicinity.

### ***Parking Requirements / Encroachment Agreement***

As summarized in the above table, the project site is able to provide 11 on-site parking spaces for both existing and proposed uses, where 18 parking stalls are required. To remedy the deficient parking, the applicant is proposing an encroachment agreement to allow for the use of eight City parking stalls located adjacent to the project site. The public record indicates that the use of the eight parking spaces located in the public right-of-way have historically been utilized in the past by customers of the commercial building based on the current orientation and direct proximately to the commercial building. As such, in total, 19

parking spaces will be made available for the commercial building if the findings to approve the encroachment agreement can be achieved.

In order to recommend approval of the encroachment agreement (the City Council has the final decision-making authority), the Planning Commission must determine whether the proposed project is in conformance with the encroachment agreement findings listed in Section 10.56.060 of the Zoning Ordinance.

Lastly, the City Engineer has reviewed the request and supports the use of the City's parking stalls for use by the commercial building.

## **PUBLIC NOTICE AND FEEDBACK**

### **Neighborhood Outreach:**

The applicant conducted a neighborhood outreach in April, 2008 (see **Exhibit D**). While no neighbors attended the April 4, 2008 meeting, a number of written comments were received as described below. No recent public outreach has been conducted above and beyond the City's notice of the Planning Commission public hearing.

### **Notice:**

At least 10 days prior to the hearing date, notice of this proposal was posted on-site and was mailed to residents and property owners within 300 feet of the subject parcel.

### **Written Feedback:**

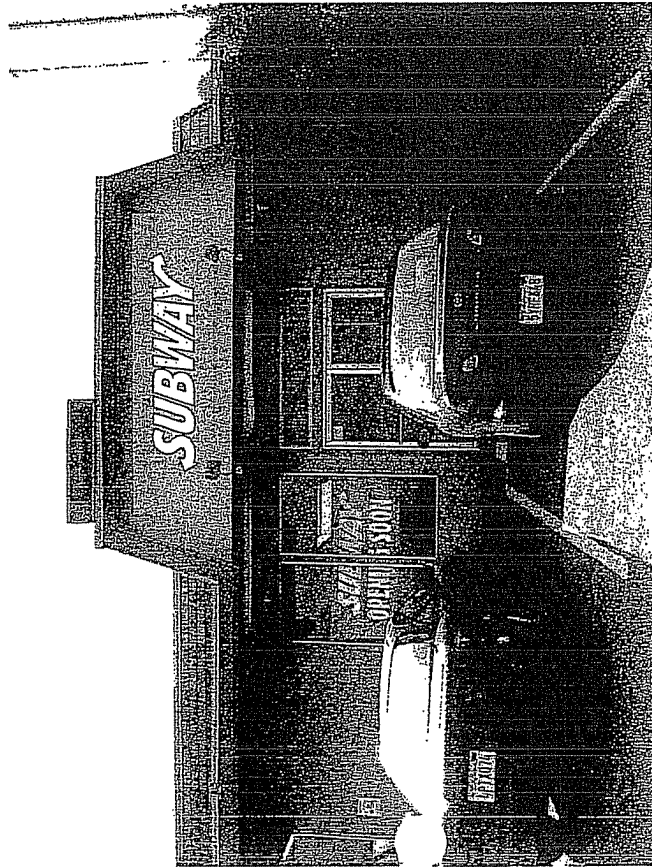
Two letters in support of the project and five letters in opposition to the project were previously submitted from neighbors and residents of Sausalito (see **Exhibit E**). In addition, staff received two phone calls in support of the project. More recently, a letter opposing the project was submitted and date stamped on January 5, 2009.

## **RECOMMENDATION**

Provide direction to staff on the suitability of approving a Conditional Use Permit for the proposed Formula Retail Subway restaurant. Based upon direction provided by the Commission, staff will prepare a draft resolution for review and approval by the Commission at a future meeting.

## **EXHIBITS**

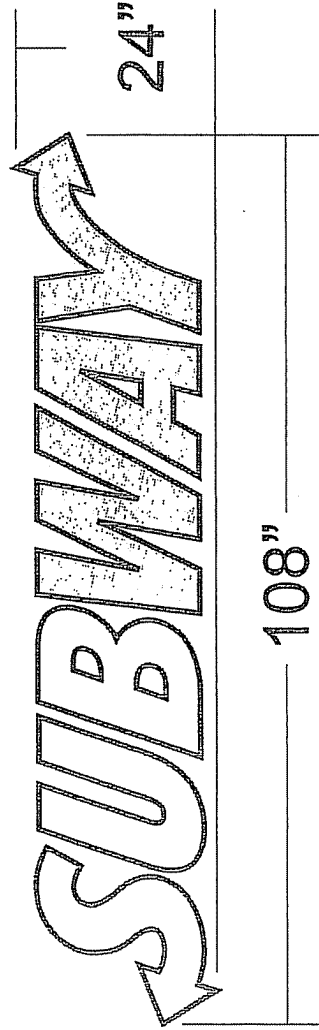
- A. Proposed Signage
- B. Memorandum from Todd Teachout, City Engineer, dated November 20, 2007.
- C. Planning Commission Minutes from the June 11, 2008 meeting.
- D. Neighborhood Outreach – Letter from Akki Patel (Project Applicant) dated February 26, 2008.
- E. Public Correspondence



BUILDING FRONTAGE IS 30'  
 SQUARE FOOTAGE OF SIGN IS 18'

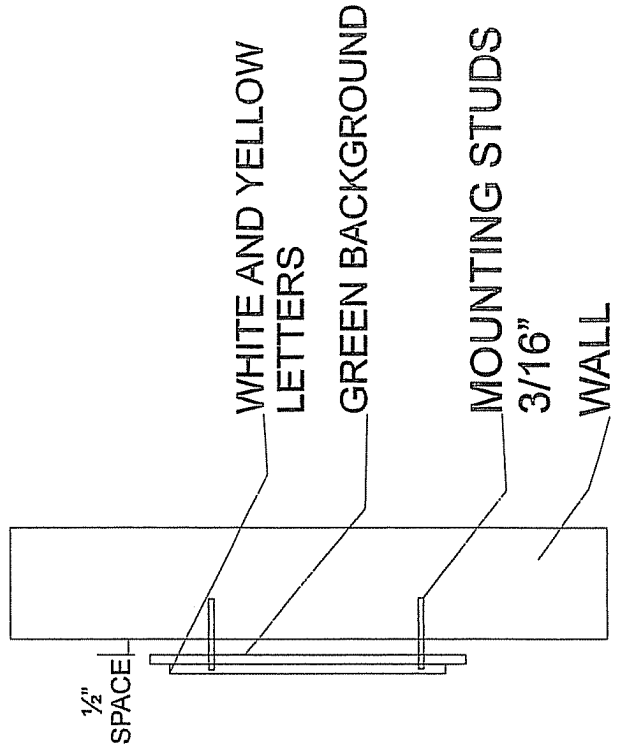


NEIGHBORS SIGNAGE



FLAT CUTOUT LETTER SET, STUD MOUNTED TO FACADE WITH 1/2" STAND OFF TO GIVE DEPTH. LETTERS FABRICATED FROM 1/4" PLEXIGLASS AND PAINTED CORPORATE COLORS.

EXHIBIT A  
 ( 2 pages)



WHITE AND YELLOW LETTERS

GREEN BACKGROUND

MOUNTING STUDS  
 3/16"

WALL

1/2" SPACE





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Solutions

Support

Company

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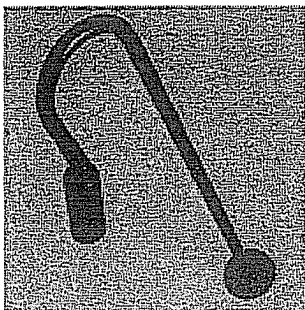
FEB 26 2008



Home > Lumiere > Sign Lights > Cambria 920



- Accent/Flood-HID
- Accent/Flood-Line Voltage
- Accent/Flood-Low Voltage
- Accessories
- Bollards
- Inground
- Pathway
- Projectors
- Sign Lights
- Step Lights
- Underwater
- Wall Mount
- Quick Ship



**DESCRIPTION**

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT DEPT.

Cambria 920 is an ultra-compact MR16 low volt age lighting fixture. It attaches to a wall mounted 36" and delivers 180° of vertical adjustment for easy Optional 24" or 30" hook arms are available in lieu standard 36" arm. Various lenses, louvers and col filters can be combined - up to three at once - to multiple lighting effects. Lumière's exclusive Siph System (S.P.S.) prevents water from siphoning in

through its own lead wires.

**MATERIAL**

Precision-machined from corrosion-resistant 6061-T6 aluminum.

**FINISH**

Double protected by a chromate conversion undercoating and polyester pov paint finish.

**ELECTRICAL**

Remote 12V step-down transformer required (not included). See Accessorie Data section for ordering information.

**LABELS & APPROVALS**

UL and cUL listed, standard wet label. Manufactured to ISO 9001-2000 Qua Standard. IBEW union made.

**Spec Sheets**

- Custom Cambria 920 Spec Sheet
- CAMBRIA 920

**IES Files**

- 920-50MR16-12-NFL
- 920-50MR16-12-NSP

**Downloads & Multimedia**

- Buyer's Guide
- Available Colors


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ITEM NO. 3 PAGE 10

5A  
22



## MEMORANDUM

**DATE:** November 20, 2007  
**TO:** Debra Lutske, Assistant Planner  
**FROM:** Todd Teachout, City Engineer   
**SUBJECT:** CUP07-008: 1907 Bridgeway, Subway Restaurant

Staff reviewed the following document for subject application:

1. Tenant Improvement, Subway Store #42442 1907 Bridgeway, Dated 10/30/07 by Van Hulle Associates

We also visited the site. Staff has concerns about three issues:

1. ADA Accessibility,
2. Water Quality,
3. Trash Enclosure Encroachment

The property owner authorized some sidewalk repairs along Easterby in 2006. They or their contractor did not obtain an encroachment permit. Consequently the installed improvements don't conform the Americans with Disabilities Act guidelines. None of the existing ramps serving the property and the island that provides parking for the site comply with the ADA. They need to.

Food service establishments handle a lot of grease, and chemicals for cleaning. Staff is concerned that the plan provides inadequate space to store and handle these materials either before use or as waste products. The applicant should submit operations policies that address chemical storage, cleaning and waste disposal for review. The plan does not propose or disclose grease trap facilities. The attached determination by the Sewer Systems Coordinator indicates that a trap will not be required, now. A sewer lateral inspection will need to be performed in conformance with the Sewer Ordinance requirements.

The trash enclosure along Easterby encroaches into the public right of way. It is also unattractive and is open on the top allowing contact with storm water. Current clean water best practices require rooftops for such enclosures. It is unclear whether this enclosure will service the proposed restaurant or if another space will be used. Assuming that the existing enclosure will be used by the restaurant staff recommends that the plans be revised to upgrade the enclosure to install a roof. We suggest that the walls be redone with a material more compatible than the existing chain link walls. If the enclosure is not currently permitted with an encroachment agreement, staff recommends that it undergo review for such an agreement.

Conceptually staff can recommend approval. Staff believe the current plan do not adequately address Engineering staff concerns and therefore we recommend revisions.

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**SAUSALITO PLANNING COMMISSION  
REGULAR MEETING  
Wednesday, June 11, 2008  
DRAFT MINUTES/UNAPPROVED**

7  
8  
9

**2. 1907 BRIDGEWAY BOULEVARD (CUP/EA 07-008/APN 064-141-05)  
Chirayu Patel (Applicant) /Gail Johnson (Property Owner)**

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14

**The applicant, Chirayu Patel, on behalf of property owner Gail Johnson requests Planning Commission approval of a Conditional Use Permit and Encroachment Agreement to convert a portion of an existing commercial retail use at 1907 Bridgeway into a formula retail restaurant establishment.**

15  
16

**Staff Report by Associate Planner Brent Schroeder**

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Mr. Schroeder reported that this application requests Planning Commission approval of a conditional use permit and encroachment agreement to convert a portion of an existing retail use at 1907 Bridgeway into a formula retail restaurant establishment known as Subway.

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The zoning for the area is commercial neighborhood, CN-1. The subject property is a 12,000 square foot parcel located on the west side of Bridgeway. The existing commercial building currently contains the 7-11, Bridgeway cleaners and the vacant unit which is the subject of the application.

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The project has been reviewed by the City Engineer who required the installation of trash collection plans and ADA updates. The project proposes 16 square feet of illuminated signage with letter heights similar to the existing businesses (2 feet); there is a sample board with the proposed colors and materials. The business would cater to residents and the public in the Caledonia, Bridgeway corridor and the Marinship. The restaurant will serve salads, sandwiches and breakfast items from the hours of 8 a.m. to 9 p.m. Staff has concluded that there is adequate parking with the approval of an encroachment agreement to use existing spaces in the public right of way adjacent to the Seven-11, that have been historically used for parking for businesses.

38  
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44

The key consideration is the formula retail findings that must be made. The purpose of the standards is to regulate the location and operation of formula retail establishments in order to maintain the City's unique village character, to add diversity and vitality to the City's commercial districts and to add to the quality of life for Sausalito residents. The applicant intends to make the case that these findings can be made. Examples of these establishments currently within the City are the Seven-11, the Shell, FedEx, Kinko's, Starbucks, possibly Mollie Stone's,

1 and an art gallery in the downtown historic district. No neighbors attended the  
2 outreach meeting held by the applicant in April. Staff has received two letters in  
3 support and five letters in opposition to the project. He has received two phone  
4 calls in support of the project.

5  
6 Staff is asking for direction from the Commission after which staff will prepare a  
7 draft resolution for consideration of the Commission at its next meeting.

8  
9 Vice Chair Keller asked how long the place has been vacant?

10  
11 Mr. Schroeder said he doesn't know; the previous use was a beauty salon that had  
12 been there for approximately five years.

13  
14 **Presentation by Applicant Architect Robert Van Halum**

15  
16 Mr. Halum focused on the findings for the formula retail. The suitability of the  
17 space as a restaurant is evident.

18  
19 **Finding 1: The use will be compatible with surrounding uses and will be**  
20 **designed in a non-obtrusive manner to preserve the community's distinctive**  
21 **character and ambiance.** The proposed Subway fits well into the existing setting,  
22 offering choices to the workers in the area. All operations will take place within the  
23 building. The location is concealed by other buildings and dense shrubs.

24  
25 **Finding 2: The formula retail establishment will not result in an over**  
26 **concentration of formula retail establishments in its immediate vicinity or**  
27 **the City as a whole.** He thought there was only three formula retail  
28 establishments in this area, but there may be more, including Kinko's and  
29 Starbucks. This does not represent an over concentration of formula retail.  
30 Locating the Subway next to the 7-11 minimizes the impact of another formula  
31 retail and still provides benefits for the area.

32  
33 **Finding 3: The formula retail establishment will provide diversity and variety**  
34 **to assure a balanced mix of commercial uses to serve both residents and**  
35 **visitor populations.** Subway provides another type of meal; the ability to quickly  
36 get a healthy meal on lunchbreak is a useful service that might not be provided  
37 elsewhere. The Subway will also provide a low cost and healthy meal to families  
38 visiting the Bay Model or beach who might not be able to afford the other local  
39 restaurants.

40  
41 **Finding 4: The formula retail establishment will contribute to an appropriate**  
42 **balance of local, regional or national based businesses in the community.**  
43 There is an abundance of small local restaurants in the area. And that is  
44 appropriate considering the tourist-based economy. The Subway business is  
45 national, as are some of the other businesses in that area, but since it is an

1 individually owned franchise operation, it will still have a local and regional  
2 presence.

3  
4 **Finding 5: The formula retail establishment will be mutually beneficial to and**  
5 **enhance the health of surrounding uses within the district.** The Subway will  
6 provide a healthy and low cost meal option to nearby workers and artists and to  
7 visitors to that part of town. The potential time savings will translate to increase  
8 productivity and thus enhance the profitability of local business. The Subway will  
9 provide three full time and one to three part-time jobs to local residents and the  
10 business taxes on it will help support the City. It is likely that Subway patrons will  
11 still go to the other nearby restaurants for the sake of variety. An additional benefit  
12 would be a reduction of traffic into and parking in the downtown area.

13  
14 **Finding 6: The formula retail establishment will contribute to an appropriate**  
15 **balance of small, medium and large sized businesses in the community.** The  
16 Subway will add another small business, which is appropriate in this case.

17  
18 **Finding 7: The proposed use together with design improvement is consistent**  
19 **with unique character of Sausalito and would preserve the distinctive visual**  
20 **appearance and shopping experience of Sausalito for its residents and**  
21 **visitors.** Subway preserves the character, appearance and shopping experience  
22 of Sausalito basically by isolated location. As mentioned previously, the location is  
23 visually screened by the surrounding area. The Subway sign will be the only  
24 exterior sign on the building, this will be low key and illuminated by miniature  
25 spotlights. Existing large spotlights will be removed; the unsightly trash enclosure  
26 currently on site will be replaced with a new wooden trellis structure and site  
27 improvements will be made to provide accessibility. The interior of the store could  
28 be provided with historic photos of Sausalito to provide some local ambiance  
29 although there wouldn't be any substantial changes to the exterior of the building.

30  
31 Vice Chair Keller asked if he knows how long that space has been vacant?

32  
33 Gail Johnson is the property manager. The building was built in 1967 as a  
34 convenience center. There was a cleaners in the space for nearly 35 years, and  
35 then the hair salon came in for five years. It's been vacant for at least 18 months  
36 minimum. They were thrilled when Subway came to them. It seems like the perfect  
37 space. She was unaware of the formula retail establishment guidelines. They are  
38 trying to get the space leased, it will be low key, it will help to maintain the outside,  
39 it will help just to have that space filled instead of vacant, which causes a little bit  
40 of a vagrant problem in the area. They have plans to improve the outside  
41 appearance. They've been working for a year trying to get this through.

42  
43 **Public Comment**

44  
45 **Evan Bennett** and his wife own the property at 513-A Easterby, which sits above  
46 the vacant lot that's directly off of the 7-11 on the south side of Easterby. He's an

1 attorney with Fenwick and West and he also owns a company that operates the  
2 food concessions inside the Exploratorium science museum and he's owned  
3 several other food businesses like this in the past. So, while he applauds Mr.  
4 Patel's entrepreneurial spirit and he can appreciate some of the hassles he's had  
5 to go through in getting something like this approved, at the same time he  
6 understands the impact that an establishment like this can have on the community.  
7 He would encourage the Commission to reject this application for three reasons:

- 8
- 9 1. The traffic issue that comes with this application.
- 10 2. The trash issue.
- 11 3. The fact that this is a franchise.
- 12

13 All these aspects will have an affect on the character, ambiance and quality of life  
14 in the area.

15

16 Regarding traffic, right now a lot of traffic comes from north to south on Bridgeway  
17 and comes through the right of way into that area already. It's a public right of right  
18 and people that live on Easterby and up above come through there and turn to the  
19 right. The fact that the right of way is on a slope and traffic is entering from both  
20 sides and the fact that the 7-11 is already a quick stop place where people are  
21 coming in and out creates a lot of confusion already as people drive by. By adding  
22 another quick stop type place with a lot of traffic entering and exiting is only going  
23 to exacerbate this problem. The fact that it is on the north end of the building hides  
24 it behind the two-story building on the north, and traffic is coming at very high  
25 speed. If there are cars parked in front of this proposed restaurant, the traffic is  
26 going to be backing up and it's going to create a lot of traffic issues.

27

28 Regarding trash, he was encouraged to hear they're going to change the garbage  
29 area; right now it is a public nuisance. There's already a high volume of trash that  
30 comes with the 7-11. As somebody who owns food businesses, he can tell the  
31 Commission, the Subway is going to create a lot of trash and exacerbate the  
32 problem.

33

34 Regarding the issue of formula retail establishments, there are no formula  
35 restaurants yet in Sausalito, with the exception of Starbucks, which has a different  
36 ambiance. If the Commission approves this use, there's nothing to prevent an  
37 avalanche of formula retail establishments of this type, that is, a national, mega  
38 restaurant-franchise type establishment. He doesn't believe the fact that the 7-11  
39 is already there minimizes that impact.

#### 40 **Rebuttal by Applicant Architect**

41

42

43 Mr. Van Halum said the applicant has noted the problem with the trash situation,  
44 and as the property manager said, they are installing a new trash enclosure that  
45 will be more secure than what is there now. As far as the slippery slope argument,

1 in this case the Subway works very well there and each space should be judged  
2 on its own merit rather than what might happen down the road.

3  
4 Vice Chair Keller asked staff about the encroachment issue and the parking. Has  
5 anybody looked at the traffic situation there? He knows there are quite a few cars  
6 that go through there and use it as a thoroughfare and there are times when the  
7 parking is full.

8  
9 Mr. Schroeder said the City Engineer has reviewed the project and had no issues  
10 about increased traffic there, that he expressed.

### 11 Further Public Comment

12  
13  
14 **Vicky Nichols** lives at 117 Caledonia. She agreed with the points made by Mr.  
15 Bennett.

### 16 Commission Discussion

17  
18  
19 Commissioner Bair said he walks by this area every day. If there is a place that  
20 Subway would be appropriate in this town, that would be the place. The formula  
21 retail issue is out of the barn with the 7-11 there. He said he doesn't have an issue  
22 with the traffic but if people are using the lot as a cut-through rather than going to  
23 the signal, that should be addressed but probably in a different forum. The trash  
24 issue should be addressed by the owners or the landlords of the property. With  
25 respect to whether this would be the first restaurant franchise, they've mentioned  
26 Trieste and Gaylord's. He doesn't see the Subway as similar to the BevMo that  
27 was proposed previously that would have had some really large impacts. He  
28 doesn't see that as a major sticking point for him.

29  
30 Commissioner Petersen said there are a lot of things about the project that he  
31 didn't really have a big problem with in terms of the particular conditional use, i.e.,  
32 a small place that has sandwiches and as Bruce Huff says in his letter, "value  
33 driven healthy products." He would be fine with the conditional use permit and he  
34 would be fine with the parking. It can be difficult to park there when 7-11's  
35 unloading a truck. But he definitely has difficulty with the formula retail and he only  
36 does so in instances where local businesses could easily feel that void. If they're  
37 talking about a gas station, there's nobody that's going to do that. Or FedEx  
38 Kinko's, there's nobody locally who's going to do something like that. But a  
39 sandwich shop. That's something that could happen locally. It would be great to  
40 see someone go in there that shops at the farmer's market and buys stuff locally.  
41 You can bet that's not what's going to happen here with the Subway. He agrees  
42 with Commission Bair that this is probably the most benign place for it to go  
43 because it's kind of hidden, but ultimately it makes that property into a strip mall. A  
44 bona fide real-live Scottsdale strip mall. He's very, very uncomfortable with it; even  
45 though it's very small, it makes an area of town that instantly becomes the part of  
46 town that you just speed by and don't even want to look at. So he has a tough time

1 making the formula retail findings. Everything else checks out, but he just can't  
2 make the formula retail findings.

3  
4 Vice Chair Keller said he agrees with most of the comments from his fellow  
5 Commissioners. He personally still wrestles with the issue of formula retail in  
6 Sausalito. This is a difficult property location wise. 7-11 does get a fair amount of  
7 traffic, the laundry mat attracts a different kind of crowd. He can imagine the  
8 property owner has had a very difficult time finding a tenant for that space. If he  
9 was to open a sandwich shop he doesn't know if he would choose this as his  
10 location. Subway, because of its name, will probably attract foot traffic and people  
11 will come across the street from the industrial park area and use it because it's  
12 convenient. It just goes back to the whole issue of formula retail. He agrees with  
13 Commissioner Petersen that if a Subway goes in there it really is a strip mall. And  
14 that may work well in Novato or somewhere else, but for people who live in  
15 Sausalito, it's a problem and he's got an issue with it. He respects the applicant for  
16 what they're trying to do, he thinks it would be beneficial for the City from a  
17 revenue standpoint; he thinks the business would do relatively well. He's not so  
18 concerned about the parking and traffic although they do need to address the right  
19 of way there in terms of people using that as a thoroughfare. The trash issue is a  
20 responsibility of the owner. If he got close to approving this, it would have to be  
21 conditioned on cleaning up the whole area. That said, it doesn't look as if the  
22 Commission is in the position to give the applicant a 3-0 vote. The applicant may  
23 request a vote, which it looks like would be a no vote, or the applicant can just ask  
24 for a continuance. This is a much bigger issue that the City is going to have to  
25 address and really define what is meant by formula retail and what's the definition  
26 of "concentration." Are you going to allow "x" number of formula retails within two  
27 or three blocks? Here we've got two kind of basically next to each other. It's kind of  
28 creep. There have been, over the last 15 years, Planning Commissions who have  
29 allowed formula retail to come in here for whatever reason. There was quite a few  
30 of them. And when you look downtown, there's a problem that he thinks is a big  
31 problem with all these art galleries; they are an eyesore and they're all formula  
32 retail, basically. Fingerhut, Hanson's, they're all over the place. So there's an over  
33 concentration of that downtown and the City will probably continue to deal with that  
34 because businesses think that's what attracts tourists and that's what tourists  
35 spend their money on. In principle, he doesn't have a problem with a sandwich  
36 store going in there, he doesn't have a problem with Subway specifically; it's a  
37 good product. He just thinks it's a much bigger issue, including what constitutes  
38 over concentration or under concentration. If the Commission approves this  
39 because it thinks it's not overly concentrated in the space, are they setting a  
40 precedent down the line for the next applicant that comes along? And that will  
41 happen because they're all trying to move into Sausalito in some form or fashion.  
42 At this juncture, the applicant is not going to get a 3-0 vote; he would suggest they  
43 ask for a continuance and come back when there's a full Commission. They can  
44 also have a vote and if it is a no vote they can appeal it to City Council. At some  
45 point the City Council is going to have to address the whole code issue with regard

1 to formula retail and what's concentration and what's not concentration. His  
2 recommendation would be to continue this.

3  
4 Commissioner Bair asked staff, because another name occurred to him, which is  
5 Le Garage, which he understands has another facility over in San Francisco. Is the  
6 City doing research on this issue? There are chains, and there are formula retail  
7 establishments and it seems like there are some that if they've got two or three, it's  
8 okay, but if it's one everyone recognizes, then the antennae go up.

9  
10 Commissioner Petersen said probably national or beyond statewide is where the  
11 antennae go up. He doesn't know if the actual code definition is clear or not.

12  
13 Commissioner Bair said how are they defining it? Are two a chain? The City needs  
14 a better definition on the formula side.

15  
16 Mr. Schroeder read the applicable code section: "Formula retail means a type of  
17 retail sales activity or retail sales establishment including for food service which is  
18 required to maintain any of the following: standardized array of services and/or  
19 merchandise; trademark, logo, service mark; symbol, sign, décor, architecture,  
20 layout, uniform or similar standardized features.

21  
22 Commissioner Petersen said so standardization is the key thing, not merely  
23 multiple ownerships of businesses.

24  
25 Vice Chair Keller said he thinks when the applicant applied, they were notified that  
26 they fell under the restriction of formula retail.

27  
28 Commissioner Bair said his question is whether the City is making an effort to  
29 uniformly apply this to different establishments that may not have high enough  
30 visibility with the City to be able to determine a formula. How do they go about it is  
31 his question.

32  
33 Mr. Schroeder said it's difficult because the code is not black and white in terms of  
34 what qualifies as a formula retail.

35  
36 Community Development Director Jeremy Graves noted that when the staff  
37 becomes aware of a business that takes a discretionary permit, staff looks at that  
38 business vis a vis the zoning ordinance, including the formula retail provisions.  
39 There are many businesses that the Commission has listed that these provisions  
40 may have applied to, but the formula retail provision was only recently adopted, so  
41 all of those pre-existing businesses are essentially legal nonconforming retail  
42 businesses.

43  
44 Commissioner Bair asked how recent is the formula retail provision?

45  
46 Mr. Graves said 2003.



1  
2 Vice Chair Keller asked the applicant if it wants a continuance or a vote.  
3  
4 The applicant asked for a recess.  
5  
6 Vice Chair Keller said either way, there's going to be no decision that evening and  
7 the applicant will have an opportunity to express its position at the next meeting.  
8 He asked if the applicant was okay with that.  
9  
10 (The applicant indicated yes.)  
11  
12 **Vice Chair Keller moved, seconded by Commissioner Bair, to continue the**  
13 **item to a date uncertain.**  
14  
15 **ROLL CALL**  
16  
17 **AYES: Commissioners Petersen, Bair and Vice Chair Keller.**  
18 **NOES: None.**  
19  
20 There was a discussion off mic about a date for the continued hearing. No date  
21 was selected.

RECEIVED

MAR 24 2008

CITY OF SAUSALITO.  
COMMUNITY DEVELOPMENT DEPT.

Akki Patel  
4050 Redwood Highway # D  
San Rafael, CA 94903

February 26, 2008

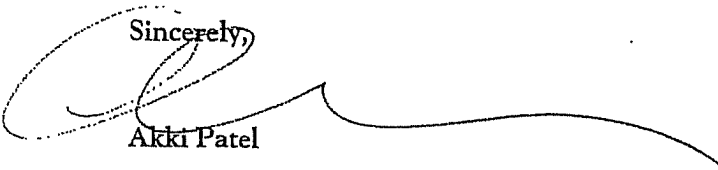
Dear Sir/Madam

I am happy to announce my plans to renovate the vacated space next to 7-11 at 1907 Bridgeway, Sausalito into a Subway restaurant. I am a successful entrepreneur in the servicing industry and look forward to doing my part to contribute to the local economy by servicing the Sausalito community. Research shows that my value-driven healthy product will satisfy an existing demand in this area. It also shows that the customer base I draw will enhance neighboring businesses.

I plan vast interior improvements and minor exterior improvement to the existing structure. My improvements will nothing but improve the appearance and enhance the center. My restaurant will reflect the sophisticated style and integrity of the Sausalito community. I would like to describe my proposed changes and discuss the rapid timeframe of renovation so as to minimize neighborhood disruption.

I hope you will be able to join me and some of your other neighbors on April 4<sup>th</sup> to review my plans and discuss any questions you may have. If you are unable to make this meeting, I would be more than happy to speak with you at another time or you can contact the Sausalito Planning Department at 415-289-4112. Please RSVP: c-patel@sbcglobal.net or 415-595-8051.

Sincerely,

  
Akki Patel

MIME 5

no attendees

## Brent Schroeder

---

From: Bruce Huff [bruce.huff@kimber.net]  
Sent: Tuesday, May 06, 2008 9:39 AM  
To: Brent Schroeder  
Subject: CUP Application - 1907 Bridgeway, Sausalito, CA

Mr. Schroeder:

I represent the owners of 10, 20, 28 & 30 Liberty Ship Way in Sausalito. We have received your notice of Public Hearing for a "formula" retail restaurant proposed at 1907 Bridgeway. In a telephone conversation, you told me that this was a Subway sandwich shop.

I would like to voice our strongest support for the approval of this restaurant. It is a much needed service situated directly adjacent to an industrial area with several hundred employees. Subway is known as a healthy alternative and I am sure that the restaurant will be a success.

If you have any questions, please do not hesitate to contact me.

Bruce Huff

*Bruce O. Huff*  
Managing Partner  
The Kimber Companies  
10 Liberty Ship Way, Suite 150  
Sausalito, California 94965  
(415) 331-6466 (800) 966-6466  
(415) 331-5524  
Email: [bruce.huff@kimber.net](mailto:bruce.huff@kimber.net)

[www.kimber.net](http://www.kimber.net) [www.BusinessByTheBay.com](http://www.BusinessByTheBay.com)

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JOHN AND MELODY MAGGIORA  
509 SPRING STREET  
SAUSALITO, CALIFORNIA 94965

May 6, 2008

Brent Schroeder  
Associate Planner-City of Sausalito  
City Hall  
420 Litch Street  
Sausalito, CA 94965

To whom It May Concern:

My husband & I would like to say that we have no objections to the opening of a Subway at 1907 Bridgeway. In fact we are looking forward to its opening.

Thank You.

John & Melody Maggiora

RECEIVED

MAY 07 2008

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT DEPT.

ITEM NO. 3 PAGE 24

5A  
36

December 5, 2007

To: The City of Sausalito

From: Rajiv Uppal, Franchisee 7-Eleven Store # 14130  
1901 Bridgeway Blvd. Sausalito, CA 94965  
415.686.1888

Re: New Subway Sandwich Location

To Whom It May Concern:

I feel that the proposed new Subway Sandwich Shop location in the center where my 7-Eleven store is located will negatively impact my sales. There is very limited parking already for this center and the new location will have 3 parking spaces out of the 9 total for the center. If they have customers eating at the site their customers will be staying for 30 minutes or more. My customers usually spend less than 5 minutes at my store. Inevitably their customers will take up spaces that my customers currently use.

As I currently sell sandwiches I estimate that this new business will cost me about \$50 per day in sales or over \$18,000 per year.

Thank you for considering my concerns.

Rajiv Uppal  
415.686.1888

May 3, 2008

Mr. Brent Schroeder  
Associate Planner  
City of Sausalito  
City Hall  
420 Litho Street  
Sausalito, CA 94965

RECEIVED  
MAY - 6 2008  
CITY OF SAUSALITO

Dear Mr. Schroeder:

We are writing with regard to the proposed Subway franchise at 1907 Bridgeway. We are not in favor of such an establishment. There are numerous local delis with similar offerings to the Subway menu. We do not think Subway would offer a new or different product to Sausalito. We became homeowners in Sausalito because we enjoy the unique character of this city. We enjoy patronizing the businesses that are unique to Sausalito; they contribute to Sausalito's special charm. National franchises detract from, rather than enhance, the Sausalito experience.

On a separate note, we have significant parking issues on Spring Street (just around the corner from the proposed location). Many of the homeowners and renters on Spring Street have only on-street parking. We are already dealing with parking overflow from the restaurants nearby on Bridgeway. Another restaurant would only exacerbate this issue.

Thank you for your attention to this matter. If you are able, please call us at 415-332-6972 to acknowledge that you have received this letter and that it will be included in the agenda packet.

Sincerely,



Bethanie and Adam Murgia

*[Faint, illegible text, likely bleed-through from the reverse side of the page]*

Application No. CUP/EA07-008  
1907 Bridgeway  
(APN 064-141-05)  
CN

Dear, Mr. Brent Schroeder

RECEIVED

MAY 20 2008

CITY OF SAUSALITO

I strongly oppose the Subway restaurant opening for following reasons,

Firstly, Sausalito has been a unique refuge in these days of big businesses and their franchises. Sausalito will lose its charm and beauty, and its attraction to so many tourists escaping from the bustles of San Francisco. Sure, some will say it's just one small sandwich shop. What's the big deal?... However, this is how it all starts. After this who is to say there won't be Wendy's, McDonald's in every corner.

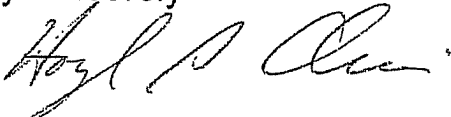
Secondly, this little shopping center is way too small to accommodate all the traffics this restaurant may bring. This nice wholesome neighborhood won't be the same.

Thirdly, local businesses won't be able to compete effectively with this conglomerate backed franchise restaurant in any meaningful way. These local businesses have been parts of Sausalito for decades and they define and make Sausalito we all love and take pride in. As owner of Fred's Place Coffee Shop, I have a personal stake in this. Within a same block, there are 7-11 convenience store, and Fred's Coffee Shop, and now possibly a Subway restaurant all competing for same lunch crowds.

Fred's has been a Sausalito institution for over four decades. We want to be a part of Sausalito for many years to come. Bringing in a Subway restaurant or any other national chain restaurant into the city of Sausalito will make that tremendously difficult.

Thanks very much for letting me express my opinion

Very Sincerely



Hoyul Steven Choi  
Fred's Place Coffee Shop  
1917 Bridgeway

RECEIVED

MAY 20 2008

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT DEPT

May 20, 2008

To: Sausalito Planning Commission

From: Sonja Hanson, 524 Spring Street, Sausalito

Re: Proposed Subway at 1907 Bridgeway (APN 064-141-05)

I have concerns about introducing fast food restaurants into Sausalito, including:

1) We are a town with many small family own and operated restaurants and delis. These small establishments can not compete on a cost basis with a 'formula retail restaurant'. Do we want to drive these small family businesses out of town by introducing chain restaurants?

2) We have several areas in town that could be described as 'strip malls'. To date, however, none of them has a fast food restaurant. That seems to me to be a positive aspect of Sausalito; these areas provide services to the community without homogenizing our town so it becomes like every other town.

I have heard that part of the debate about giving a conditional use permit for this project is showing that it would provide a unique service. I am not sure what that unique service would be, except possibly extended hours of operation. If someone is in need of a sandwich in the middle of the night, there is always the 7-11 that exist next door. I suspect it got a conditional use permit based on hours of operation, one of those in the neighborhood is enough.

SA  
40



**Brent Schroeder**

---

From: Josef Aukee [jaukee@gmail.com]  
Sent: Wednesday, May 28, 2008 3:30 PM  
To: Brent Schroeder  
Subject: Subway Restaurant Opposition

Dear Mr. Schroeder:

Hello.

I am writing to register my opposition to the proposed Subway Restaurant on Bridgeway near 7-Eleven. This appears to be in violation of city code regarding chain restaurants and would be a severe blow to the environment and quality of life in midtown Sausalito. I strongly urge you and the other commissioners to reject this proposal. It could lead to protracted lawsuits the city cannot afford and problems in the future as every other national/regional food and retail chain attempt to get a foothold here. Who is next in line? It is time to say no now.

Thank you for your time.

Sincerely,

Josef Aukee  
(415) 339-0345  
(415) 259-9852

Mary Barter

RECEIVED

JAN - 5 2009

CITY OF SAUSALITO  
PATIENT CARE ADVOCATE  
COMMUNITY DEVELOPMENT

January 1, 2009

Brian Stanke, Assistant Planner  
City of Sausalito  
Community Development Department  
420 Litho Street  
Sausalito, CA 94965

COMMUNITY DEVELOPMENT  
PATIENT CARE ADVOCATE

RECEIVED

RE: Permit and Encroachment Agreement to convert a portion of an existing commercial retail use at 1907 Bridgeway into a formula retail restaurant establishment known as "Subway"  
Application No. CUO/EA 07-008

Dear Mr. Stanke,

We purchased our home at 520 Easterby Street in Sausalito in April, 1999 and have resided at this address since that time. For the following reasons, Christopher and Mary Barter object to issuing a permit for the converting any part of 1907 into a "Subway":

1. Our street has no restricted parking and it has become increasingly difficult for the residents on Easterby to park. Subway patrons will use our street for parking and therefore create more parking problems for our residents.
2. The proposed area for a Subway is particularly dangerous for pedestrians, drivers and bicyclists. Adding a fast food restaurant will create more problems. Automobiles may legally drive through north entrance of the area in front of 7-11, etc in order to turn onto Easterby Street. The bike lane ends on the north side of the entrance and there are many near-missed accidents involving automobiles vs. bicyclists. Due to confusing northern entrance to the 7-11, automobiles seldom stop at the existing crosswalk on the north entrance.
3. There are legal 24-hour parking spaces that residents may use in the existing 7-11 parking lot. This provides some of the residents of Spring and Easterby streets to park when there is no spaces on their streets. Where will the Subway customers park?

ITEM NO. 3 PAGE 30

5A  
42

RECEIVED

JAN - 5 2009

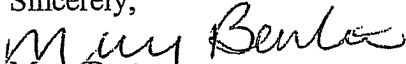
CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT


There are plenty of local eateries in existence on Bridgeway and Caledonia. Why would the City of Sausalito issue a permit for a fast-food chain restaurant, particularly in such a crowded location?

4. This is a very dangerous area for pedestrians and bikes that needs some improvements. A fast-food restaurant will only create more problems.

It is unfortunate that we will be out of the area on a vacation on January 14 and unable to attend the planning commission hearing. We do, however, ask that you read our letter carefully and consider our protest to issuing a permit to Subway.

Sincerely,

  
Mary Barter

  
Christopher Barter

**Jeremy Graves**

---

**From:** Grant Colfax [grant\_colfax@yahoo.com]  
**Sent:** Friday, January 09, 2009 10:17 AM  
**To:** Jeremy Graves  
**Subject:** For Planning Commission - - Subway Shop

January 5, 2009

RECEIVED  
JAN - 9 2009  
CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

To: Sausalito Planning Commission

From: Drs. Grant Colfax and Rodman Rogers, 41 Harrison, Sausalito

Re: Proposed Subway at 1907 Bridgeway (APN 064-141-05)

We have concerns about introducing fast food restaurants into Sausalito, including:

- 1) We are a town with many small family own and operated restaurants and delis. These small establishments cannot complete on a cost basis with a 'formula retail restaurant'. Do we want to drive these small family businesses out of town by introducing chain restaurants?
- 2) We have several areas in town that could be described as 'strip malls'. To date, however, none of them has a fast food restaurant. That seems to me to be a positive aspect of Sausalito; these areas provide services to the community without homogenizing our town so it becomes like every other town.
- 3) Fast-food restaurants provide unhealthy diets, therefore harming the health of our residents by increasing their risk for obesity, diabetes, and cancer.

We have heard that part of the debate about giving a conditional use permit for this project is showing that it would provide a unique service. We are not sure what that unique service would be, except possibly extended hours of operation. If someone is in need of a sandwich in the middle of the night, there is always the 7-11 that exist next door. One such option in the neighborhood is sufficient.

**SAUSALITO PLANNING COMMISSION  
RESOLUTION NO. 2009-06**

**A RESOLUTION DENYING A CONDITIONAL USE PERMIT TO ESTABLISH A  
SUBWAY RESTAURANT AT 1907 BRIDGEWAY  
(CUP/EA 07-008)**

---

WHEREAS, an application has been filed by Chirayu Patel requesting Planning Commission approval of a Conditional Use Permit to establish a 1,243 square foot Subway Restaurant at 1907 Bridgeway (APN 064-141-05) and the Planning Commission recommendation of City Council approval of an encroachment agreement to allow the use of eight parking spaces in the public right-of-way; and

WHEREAS, the Planning Commission conducted duly-noticed public hearings on June 11, 2008, January 14, 2009, and January 28, 2008, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission has reviewed and considered the project plans titled "Tenant Improvements for Subway Store # 42442" stamped received February 26, 2008; and

WHEREAS, the Planning Commission has received and considered oral and written testimony on the subject application and obtained evidence from site visits; and

WHEREAS, the Planning Commission has reviewed and considered the information contained in the June 11, 2008 and January 14, 2009 staff reports for the proposed project; and

WHEREAS, the Planning Commission has reviewed the requirements of the General Plan and Zoning Ordinance as outlined in the staff reports; and

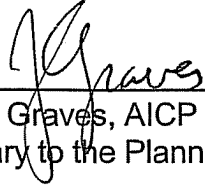
NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES AS FOLLOWS:

1. Conditional Use Permit CUP 07-008 is denied based upon the attached findings.
2. Encroachment Agreement EA 07-008 is recommended to the City Council for denial based upon the attached findings.

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the 28<sup>th</sup> day of January 2009, by the following vote:

*Attachment 4  
(4 pages) 5A  
45*

AYES: Commissioner: Keegin, Cox, Keller  
NOES: Commissioner: Bair  
ABSENT: Commissioner: Stout



---

Jeremy Graves, AICP  
Secretary to the Planning Commission

ATTACHMENT: Findings for Denial of a Conditional Use Permit

I:\CDD\PROJECTS - ADDRESS\A-B\Bridgeway 1907\CUP 07-008\1907 Bway pces 01-28-09.doc

PLANNING COMMISSION RESOLUTION  
January 28, 2009  
CUP/EA 07-008  
1907 BRIDGEWAY

ATTACHMENT  
FINDINGS

I. FORMULA RETAIL FINDINGS

- A) The proposed project is **not** in conformity with the required Formula Retail Finding established in the Zoning Ordinance Section 10.44.240.D.1. "The Formula Retail establishment will be compatible with existing surrounding uses, and has been designed and will be operated in a non-obtrusive manner to preserve the community's distinctive character and ambiance."

*The Neighborhood Commercial (CN) District is characterized by two blocks of small commercial establishments. All of the existing commercial uses within the subject District are small in scale and locally owned with individualized signage and unique frontages, with the exception of the 7-11 Formula Retail use located at 1901 Bridgeway, the same building in which the Subway Restaurant is proposing to locate. The location of two Formula Retail establishments in one building will detract from the Spring Street Valley neighborhood planning area and will create an obtrusive appearance which detracts from the distinctive character and ambiance of the community.*

- B) The proposed project is **not** in conformity with the City's Formula Retail Finding established in the Zoning Ordinance Section 10.44.240.D.2. "The Formula Retail establishment will not result in an over-concentration of formula retail establishments in its immediate vicinity or the City as a whole."

*The location of the proposed Subway Restaurant will create an over-concentration of Formula Retail uses on the site. The project site consists of a 5,000 square feet commercial building with three tenants. The existing tenants which occupy the building are a Formula Retail "7-11" food store and a local laundry. The addition of a second Formula Retail establishment to a building which currently contains a Formula Retail establishment will be an over-concentration of Formula Retail establishments if two-thirds of the tenant spaces are occupied by Formula Retail establishments.*

- C) The proposed project is **not** in conformity with Formula Retail Finding established in the Zoning Ordinance Section 10.44.240.D.7. "The proposed use, together with its design and improvement, is consistent with the unique historic character of Sausalito, and would preserve the distinctive visual appearance and shopping experience of Sausalito for its residents and visitors."

*The CN District and the City's other commercial areas are defined by a variety of smaller retail and service establishments. It is this "small scale eclectic ambience" (Section*

10.44.240.A) that contributes to the distinctive visual appearance and shopping experience of Sausalito for its residents and visitors. The presence of locally-owned businesses with ties to the community is also central to Sausalito's character. The introduction of another Formula Retail establishment in one small commercial center will detract from this community character.

## II. ENCROACHMENT AGREEMENT FINDING

- A) The proposed project does not comply with the following required finding established in the Zoning Ordinance Section 10.56.060.B: "The encroachment will not adversely affect the usability or enjoyment of adjoining parcels nor create or extend an undesirable land use precedent.

*The Planning Commission finds that the encroachment agreement to allow the use of eight public parking spaces will adversely affect the availability of the public parking spaces and create an undesirable land use precedent due to the following reasons:*

1. *The public parking spaces are well used by the public to support surrounding land uses related to the existing commercial and residential land uses in the neighborhood.*
2. *Since the public parking spaces are well used, the additional parking demand generated by the proposed Formula Retail establishment will result in additional parking impacts on the limited number of parking spaces in the existing residential neighborhood.*
3. *The loss of the public parking spaces for the exclusive use of the Subway Restaurant will negatively impact adjacent businesses in the neighborhood.*



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SAUSALITO PLANNING COMMISSION  
REGULAR MEETING  
Saturday, January 14, 2009

Transcribed by: Vicki Blandin  
(510) 337-1558  
vblandin1@yahoo.com

Attachment 5 SA  
(60 pages) 1 49

1                   **Sausalito Planning Commission Regular Meeting 1-14-09**  
2  
3

4 **Present:**

5 **Bill Keller, Chair**

6 **Stan Bair, Vice-Chair**

7 **Stafford Keegin, Commissioner**

8 **Joan Cox, Commissioner**

9 **Eric Stout, Commissioner**

10 **Jeremy Graves, Community Development Director**

11 **Heidi Burns, Associate Planner**  
12  
13  
14

15                   **Item #3: SUBWAY / 1907 Bridgeway Boulevard (CUP/EACH 07-008)**  
16

17                   CHAIR KELLER: All right, moving right along here. Let's see, Item #3, which is  
18  
19 1907 Bridgeway Boulevard, Subway sandwich shop. Did you give me a copy? Oh,  
20  
21 sorry. Okay.  
22

23                   COMMUNITY DEV. DIR. GRAVES: I would like to introduce our new associate  
24  
25 planner, Heidi Burns, to the Planning Commission. Heidi has been with us since early  
26  
27 December. Heidi previously worked for the City of Sausalito in the late 1990s for two-  
28  
29 and-a-half years as an assistant planner, and then more recently worked for the Town  
30  
31 of Truckee for five-and-a-half years as an associate planner and as a senior planner,  
32  
33 and then recently worked with a private engineering firm in Grass Valley as a principal  
34  
35 planner. Heidi has a Bachelors degree from UC Davis and a Masters degree in public  
36  
37 administration from San Francisco State University, and I've asked her to be the Staff's  
38  
39 point of contact with the Historic Landmarks Board, and Heidi has an excellent  
40  
41 background in environmental review and excellent customer service skills. So with that,  
42  
43 Heidi, welcome to the Community Development staff and I'll hand the Subway project  
44  
45 off to you now.  
46  
47

48                   ASSOC. PLANNER BURNS: Thank you for the introduction. Thank you. So as  
49  
50 you identified on the agenda this application is for the Subway restaurant to be located

1 within the City of Sausalito. Specifically Chiraya Patel is requesting a Conditional Use  
2  
3 Permit to allow both a restaurant within the neighborhood Commercial Zoning District as  
4  
5 well as to allow a formula retail establishment within the City of Sausalito. This project  
6  
7 also includes an Encroachment Agreement and the applicant is requesting the Planning  
8  
9 Commission to provide a recommendation to the City Council to allow the use of eight  
10  
11 existing parking spaces within the City right-of-way, which is also adjacent to the  
12  
13 commercial building.  
14

15         The project site is located on the corner of Easterby and Bridgeway at 1907  
16  
17 Bridgeway. The project is within the CN Zoning District and has a Neighborhood  
18  
19 Commercial General Plan land use designation, and the project site is also located  
20  
21 within the Spring Street Valley neighborhood as identified in the General Plan. The  
22  
23 adjacent land uses in close proximity to the project site would be the Marinship Light  
24  
25 Industrial uses to the east, a Residential to the west, Mixed Commercial and Residential  
26  
27 to north, and Residential to the south.  
28

29         This application has been brought before the Planning Commission on June 11<sup>th</sup>  
30  
31 of last year and this is the same application that was reviewed by the Planning  
32  
33 Commission at that time. The concerns of the Planning Commission identified at that  
34  
35 time related to the appropriateness of the formula retail restaurant, concerns regarding  
36  
37 the existing building as it may appear as a strip mall with the location of another formula  
38  
39 retail establishment within that one commercial building. There were concerns that the  
40  
41 formula retail use may remove commercial space from a local non-franchise business or  
42  
43 take away an opportunity for someone local to go within that tenant space as well as  
44  
45 whether or not the off-site parking can be supported, and at that time the Planning  
46  
47 Commission believed that they could make the findings to support the Encroachment  
48  
49 Agreement. This item was continued to a date uncertain in order to allow the applicant  
50

5A  
51

1 time to identify and possibly mitigate the concerns that were addressed at that meeting  
2  
3 as well as allow the applicant to return back to the Planning Commission to have this  
4  
5 item reviewed by a full commission; at that time there were only three planning  
6  
7 commissioners reviewing this item.  
8

9 After that Planning Commission meeting in June the applicant had met with  
10  
11 Planning Staff to discuss potential changes to the project, but the application again  
12  
13 before you tonight proposes no changes to the project that was previously reviewed by  
14  
15 the Planning Commission.  
16

17 The applicant is requesting to locate a Subway restaurant within an existing  
18  
19 1,294 square feet tenant space within an existing building that was constructed around  
20  
21 the late 1960s; 1969 to be more specific. Within that tenant space the applicant is  
22  
23 requesting that 230 square feet be allocated towards dining, and within that space five  
24  
25 tables will be located with fixed seating for 12 people.  
26

27 The parking demand of both this use and the entire site would generate 18  
28  
29 parking spaces and the request for parking would be 19, 11 of which would be included  
30  
31 on site, and eight parking spaces, which would be located within the City's public right-  
32  
33 of-way.  
34

35 The applicant is also requesting signage to locate a Plexiglas Subway sign to be  
36  
37 identified on the façade of the building as shown on the plans as well as lighting for both  
38  
39 the Subway restaurant as well as the existing 7-Eleven located two tenant spaces down  
40  
41 within the same building.  
42

43 In terms of Staff's review of the General Plan consistency and Zoning Ordinance  
44  
45 consistency Staff recommends and believes that a restaurant use and an  
46  
47 Encroachment Agreement could be supported, however the primary issue associated  
48  
49 with this project is whether or not the Conditional Use Permit findings to permit the  
50

SA  
52

1 formula retail restaurant can be supported. In order to facilitate the Planning  
2  
3 Commission's review of this and identified in the Staff Report, Staff provided some  
4  
5 positives and negatives associated with this use.  
6

7         The positives would be that the Subway restaurant would provide an additional  
8  
9 food option within the general vicinity of the neighborhood. It would be located within a  
10  
11 tenant space that has been vacant for two years. This use would provide additional  
12  
13 sales tax revenue to the City, and the name recognition does attract patrons to this use.  
14

15         The negatives associated with this project would be that the application and the  
16  
17 project as being proposed really don't provide a unique appearance that's compatible  
18  
19 and consistent with the community character of Sausalito. There appears to be an  
20  
21 overconcentration of sandwich and deli-style restaurants within close proximity to the  
22  
23 proposed use. Fred's restaurant is located three buildings down, and then Saylor's  
24  
25 restaurant is located on the next block but in very close proximity, and it does appear as  
26  
27 though there would be an overconcentration of formula retail businesses within one  
28  
29 location with the existing 7-Eleven as well as the Subway restaurant.  
30

31         In terms of public noticing and feedback with regard to this use and community  
32  
33 outreach, on April 4, 2008 the applicant did host a neighborhood meeting. No one  
34  
35 attended that meeting, however as the project got to the Planning Commission in June  
36  
37 2008 there were five letters, and now since this application has been renoticed there are  
38  
39 now seven letters opposing the proposed use. To summarize some of the concerns,  
40  
41 there would be concerns related to overconcentration of sandwich shops and delis in  
42  
43 the area. There was one letter speaking to unfair competition, bringing in another deli-  
44  
45 style sandwich restaurant in the same building. There were concerns regarding  
46  
47 uniqueness of the area, parking, an increase in traffic, and a strip mall appearance.  
48  
49  
50

1 There have been two letters of support and there were three phone calls in support of  
2  
3 this proposed use.  
4

5 So in closing, Staff is recommending that the Planning Commission provide  
6  
7 direction to Staff on whether or not the Conditional Use Permit findings to allow a  
8  
9 formula retail restaurant in the CN district can be supported, as well as the Conditional  
10  
11 Use Permit findings related to a restaurant use, as well as also providing a  
12  
13 recommendation to the City Council on whether or not the findings for the  
14  
15 Encroachment Agreement can be approved. Based on the direction the Planning  
16  
17 Commission provides Staff, then Staff will return with an appropriate resolution.  
18

19 However, the alternatives that the Planning Commission can consider would be  
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21 to direct Staff to prepare a Resolution of Approval subject to the specific revisions  
22  
23 and/or Conditions of Approval to continue the hearing for additional information or  
24  
25 revisions, require further environmental review, or lastly, direct Staff to prepare a  
26  
27 resolution of denial for the project on the basis that the required findings cannot be  
28  
29 supported.  
30

31  
32 So with that I will conclude my presentation and I'm available to answer any  
33  
34 questions you may have.

35  
36 CHAIR KELLER: Any questions? Stafford.  
37

38 COMMISSIONER KEEGIN: Heidi, could you identify exactly where this parking  
39  
40 is going to occur, where the encroachment permit is going to be?  
41

42 ASSOC. PLANNER BURNS: The site plan unfortunately isn't very clear. You  
43  
44 can also refer to, I believe, the second sheet of the submitted plans. But you can see  
45  
46 that the existing, at least on the middle arrow up here, this is the existing commercial  
47  
48 building with the parking located in front. There are diagonal parking spaces, which  
49  
50

1 actually looks like it's part of the entire facility if you were to go out there, but actually  
2 those diagonal spaces are City parking spaces and they're located to the east.  
3

4  
5 COMMISSIONER KEEGIN: The City right-of-way?  
6

7 ASSOC. PLANNER BURNS: Yes, the City right-of-way.  
8

9 VICE-CHAIR BAIR: I'm taking it that the other retail establishments there have  
10 some sort of... Do they require an Encroachment Agreement also when they were... Do  
11 we know?  
12

13  
14  
15 ASSOC. PLANNER BURNS: When the project was originally approved the 11  
16 parking spaces were provided and that was sufficient at that time for those uses. I  
17 believe there were a laundromat, a drycleaners, and the 7-Eleven food store, and  
18 throughout time I'm not quite sure if additional effort has been taken to determine if  
19 there were enough parking spaces for the uses.  
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25  
26 CHAIR KELLER: Heidi, by chance do you have in overhead format the  
27 applicable language in the code section as it pertains to formula retail?  
28

29  
30 ASSOC. PLANNER BURNS: Unfortunately I don't, and I was thinking I should  
31 provide that, but I was going to refer to the Staff Report, which provides those exact  
32 findings, and they would be on page five of Item #3.  
33

34  
35 CHAIR KELLER: I can just quickly read it out?  
36

37  
38 ASSOC. PLANNER BURNS: Okay, and if you'd like I can read it as well.  
39

40  
41 CHAIR KELLER: Sorry?  
42

43  
44 ASSOC. PLANNER BURNS: If you would like I could read it as well. Whatever  
45 your preference is.  
46

47  
48 CHAIR KELLER: Well, I mean I'm just going back in the minutes from our prior  
49 meeting. This is for the audience. "Formula retail means a type of retail sales activity or  
50 retails sales establishment, including for food service, which is required to maintain any

1 of the following: Standardized array of services and/or merchandise, trademark, logo,  
2  
3 service mark, symbol, sign, décor, architecture, layout, uniform or other similar  
4  
5 standardized features.” And we can repeat that later on, but I think that’s a key aspect of  
6  
7 this application tonight and I’m sure it’s part of many of the people in the audience are  
8  
9 concerned about the formula retail, and we can refer to that later on, particularly as  
10  
11 people from the audience want to come up and make a few comments. So that said, is  
12  
13 the applicant here, or the owner? Like to come up and make a presentation?  
14

15 GAIL JOHNSON: My name is Gail Johnson; I’m the property manager. I wanted  
16  
17 to hand you these pictures if it’s possible. I had sent them to Brian and I don’t know that  
18  
19 they ever got distributed. It’s just the visibility issues we have.  
20

21 I’d like to start just by the description of the property. It’s at 1907 and this building  
22  
23 was built 43 years ago and it’s owned by Ken Niles and Jerry Needleman, and Jerry  
24  
25 Needleman is a long-time local Sausalito resident and is still living here. The history of  
26  
27 that particular space is it was originally a drycleaners and most recently Sabrina, here,  
28  
29 had it, and she vacated the space on May 31, 2006, so the space has been vacant for  
30  
31 almost three years now. Subway leased it. We signed a lease with them in May 2007,  
32  
33 which was about a year after the vacancy, so we’re looking at it’s not quite a year-and-  
34  
35 a-half that we’re looking at trying to get the lease through on Subway. And then we first  
36  
37 got to the Staff Report in June 2008 when we came to the Planning Commission.  
38

39 One of the things I wanted to just read, when this building was built originally and  
40  
41 the Zoning Ordinance, and I’d like to read that, is, “The CN District, which is intended to  
42  
43 provide local serving retail and service businesses in a location and manner that serves  
44  
45 nearby commercial and residential areas as well as one-stop convenient services in the  
46  
47 three distinct neighborhood commercial centers,” and this center is one of those three  
48  
49 commercial centers.  
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1 The problem we have with this, as you may know and as the pictures hopefully  
2 will show you, is that there is no street visibility and we've had a difficult time with the  
3 success of the person in that in space. It's blocked by the building to the north side of it  
4 and as you come down the street either way you cannot see this building. There is also  
5 no sidewalk in front, and that was Sabrina's big complaint is she had no walk-in  
6 business, she couldn't get people to see it, people didn't know she was there.  
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13 As we've tried to lease this space since then we've had a very difficult time  
14 finding people that wanted it, because of the visibility issues, because there isn't the  
15 walk-in traffic, and just the general area and where it is. The nature of the center is not  
16 conducive to most retail type businesses, dress shops, that type of thing. There are  
17 certain types of businesses that are successful in this type of center and this type of  
18 space and Subway is one of those types of use, and we were very excited about having  
19 them just because of what they represent, and they are definitely a fresh, wholesome  
20 type of food. It's very nutritious, the sandwiches that they offer, and would be a big  
21 benefit to the center, to the spaces there, and to the residents in the area as well as the  
22 commercial people in the area. There has been a lot of interest from different  
23 commercial places across the street.  
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36 One of the big issues that we have is the formula retail of course, and the  
37 purpose of the formula retail is not to omit formula retails, but to regulate the location  
38 and operation and not have an overabundance. I'm going to read this as it was  
39 presented. "Is to maintain the City's unique village character, the diversity and the  
40 vitality of the community's commercial districts and the quality of life of Sausalito  
41 residents. The City has determined that preserving unique architecture, signage,  
42 graphic and other design elements so that the City maintains a distinctive visual  
43 appearance and small-scale eclectic ambiance will promote the long-term viability of the  
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1 community's business districts. The City has also determined that preserving a  
2  
3 balanced mix of local, regional and national based businesses and small and medium  
4  
5 sized businesses will maintain and promote the long-term economic health of visitors  
6  
7 serving businesses and the community as a whole. It is therefore the intention of the  
8  
9 City that an overconcentration of formula retail businesses not be allowed, that all  
10  
11 permitted formula retail establishments shall create a unique visual appearance that  
12  
13 reflect and/or complement the distinctive and unique historical character of Sausalito  
14  
15 and that no such establishment shall project as visual appearance is homogenous with  
16  
17 its establishments in other communities.”

18  
19           What we wanted to stress, and I think just because of the nature of this being a  
20  
21 long-term of trying to get this before the Planning Commission and the issues that we've  
22  
23 had is that Subway, one of the things that Auki (phonetic) Patel provides, he is not a  
24  
25 corporate store; he is a local franchisee. He has the latitude and the ability to create a  
26  
27 unique appearance here. He does not plan on putting that plastic yellow logo out there.  
28  
29 What he has, and Robert, the architect, will address that, he has the latitude to put any  
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31 kind of sign he wants and any kind of interior he wants, and what he is proposing, and  
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33 Robert will address that also, is to put a sign that is unique to Sausalito and represents  
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35 Sausalito's unique character. The interior can also be that; we'll show you the different  
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37 options that are available to that. It will not be homogenous to what a standard Subway  
38  
39 has and it won't conform. It basically will be very unobtrusive. You're not going to see  
40  
41 the yellow logos; he's proposing a wooden redwood sign that has just Subway in it.  
42  
43 There is nothing about that space that will represent a corporate or a formula retail  
44  
45 except the word "Subway." The issue is not about the building itself, but the use of the  
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47 building, the space there and being a formula retail.  
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1 Subway has a lot to offer the community. It is a healthy sandwich. It's a very  
2 affordable sandwich. It's fast, unlike Fred's. Fred's is a space that you go in and you  
3 basically sit down. This offers the commercial businesses there a chance to go in and  
4 get a quick sandwich or salads that are healthy and within a few minutes you've got a  
5 salad or sandwich and you're ready to go back to work. So it does provide the healthy  
6 options, it provides a quick sandwich.  
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13 The other thing that it also provides, one of the things in the three years that this  
14 space has almost been empty is the City has lost \$16,000 to \$18,000 in revenue by  
15 trying to find a Mom and Pop. I don't know that we're going to be able to do that,  
16 especially in the economic times we're in now. We've tried to find that Mom and Pop.  
17 We have. We've had no calls, no interest in the space to try to lease it. It's three years  
18 now and it's not a space that's conducive to your typical Mom and Pop type use.  
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25 Subway has it's own clientele, it is recognized by its name, people know what it  
26 is. They're going to draw in their own customer base. I think it will be a very viable use  
27 of this.  
28  
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31 The design will be significantly different; it will be what Sausalito is looking for. It's  
32 very unique and it will offer to the historic character of Sausalito that you're trying to  
33 continue to have.  
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38 The success and vitality of the City depend on the success of its businesses.  
39 Subway offers an opportunity to have a thriving business that is able to sustain itself  
40 and add long-term economic viability to the City and the community. It will be able to  
41 attract its own customer base as well as add a great alternative with healthy foods. This  
42 (inaudible) is compatible and consistent with the intent of formula retail use and they will  
43 change the standardized look to add unique character to the Sausalito (inaudible).  
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Thank you.

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CHAIR KANE: Thank you.

ROBERT VAN HALL: Can I put this on the overhead?

CHAIR KELLER: Sure.

VICE-CHAIR BAIR: Sure, that's the traditional place.

ROBERT VAN HALL: I'm Robert Van Hall; I'm the architect for Subway on this. I just wanted to say that we do have great latitude on what we can provide. The owner is the development agent for the area; he doesn't have to follow the corporate rules.

First of all for the sign, instead of the Subway plastic logo we would be proposing a redwood sandblasted sign with the Subway text probably like in dark green, the rest of the signboard to match the building colors.

For the interior treatment we're not going to use any of the Subway finishes. We would have wood plank flooring, a beadboard painted green, wainscoting all around, this would also occur across the front of the counter, and then we would have a vintage style gold wall covering above that, and then instead of the Subway art, which is just pictures of vegetables, we would have historic photos in wood frames. The ceiling would be pressed tin, something that would be conducive to the Victorian style kind of old fashioned look to match Sausalito. And then for the back service area, the kitchen, we would have the pastel yellow and green tiles for the washable finish.

A lot of the objections in the Staff Report were to the non-uniqueness of the proposal, but like I say, we feel this would fit right in to Sausalito and are still willing to work with the City to come up with something that they can accept. I wanted to respond to some of the negative aspects for the project that were listed in the Staff Report.

The first was that we will have a unique appearance.

We do offer another food option. I know there are adjacent restaurants, but what we are providing is the ability for someone on a relatively short lunch break to be able to

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1 come and get a sandwich quickly and eat it there or go back, without having to wait in  
2  
3 line or have to sit down. The Subway food is, again, like I said, it is healthy, it is a good  
4  
5 option to what you would be able to get at 7-Eleven or some of the other local  
6  
7 restaurants.

8  
9         With a different interior design it would offer a unique dining experience to the  
10  
11 residents.

12  
13         And then the issue of the overconcentration of formula retail, two of these in one  
14  
15 building could be considered overconcentration, however the building is perfect for it. I  
16  
17 mean it's what it was built for. One good aspect of this is located in this building it really  
18  
19 minimizes the visual impact. As has been mentioned, coming from the north you cannot  
20  
21 see it. I think maybe for some small angle you can actually catch sight of the Subway,  
22  
23 but other than that you will not see that.

24  
25         Another thing is the coin laundry has been a long-term tenant. It's been there I  
26  
27 think since the beginning, so it will most likely remain, so there isn't any likelihood of  
28  
29 another formula retail store trying to come in there.

30  
31         And then again, as far as whether this provides some opening into formula retail  
32  
33 use, this is a particular building and if not here, where else? I mean where else would  
34  
35 one be allowed to go?

36  
37         I then wanted to go over the findings again.

38  
39         The first one, a formula retail establishment will be compatible with the existing  
40  
41 surrounding uses. It has been designed and will be operated in a non-obtrusive manner  
42  
43 to preserve the community's distinctive character and ambiance. The existing  
44  
45 surrounding uses here, they form a separate area of locally oriented food and service  
46  
47 businesses. The proposed Subway fits will into that setting. It offers additional lunchtime  
48  
49 options to nearby offices and shop workers and artists. The facility will be operated in a  
50

1 non-obtrusive manner with all operations taking place within the building. The particular  
2 location is set back from the street and is concealed by the neighboring building, the  
3 shelter in front and by the (inaudible) shrub, and as such it would have little impact on  
4 the community's distinctive character and ambiance. Once again, as I said, the sign, it  
5 would fit right in with typical Sausalito signs.  
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11 Finding Two, the formula retail establishment will not result in an  
12 overconcentration of formula retail establishments in its immediate vicinity or the City as  
13 a whole. Right now as far as I know the stores that can be considered formula retail are  
14 the Molly Stone's, the Benetton, the Starbucks, the 7-Eleven, the Fed Ex and Kinko's  
15 and the UPS Store. All of these businesses provide unique services for the public, just  
16 as a Subway would. Oh, also, I'm sorry, the Shell station; it's another example of  
17 businesses that are there that serve the public. There is no other formula retail type  
18 restaurant in the city, so I do not feel that that would be an overconcentration.  
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27 The third one, the formula retail establishment would promote diversity and  
28 variety to assure a balanced mix of commercial uses available to both resident and  
29 visitor populations. Subway provides a variety in offering another type of meal to  
30 resident and visitor populations, the ability to quickly get a healthy meal on a lunch  
31 break is a useful service that might not be provided elsewhere. The Subway will also  
32 provide a low-cost and healthy meal to families visiting the Bay Model or beach who  
33 might not be able to afford the other local restaurants.  
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42 Finding Four would be formula retail establishment will contribute to an  
43 appropriate balance of local, regional or national based businesses in the community.  
44 There is an abundance of small local restaurants in the area. This isn't appropriate  
45 considering the tourist-based economy, even though this area is not focused toward  
46 tourists but more serving the local businesses. The Subway business is national as  
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1 some of the other businesses in that area, but it is an individually owned franchise  
2 operation, so it still has a local and regional presence.  
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5 Finding Five, formula retail establishment will be mutually beneficial to and it  
6 would (inaudible) of the surrounding uses in the district. The Subway will provide a  
7 healthy and low-cost meal option to nearby workers and artists and visitors to that part  
8 of town. Potential timesavings would translate to increased productivity and hence  
9 profitability to local-served businesses. The Subway will provide three full-time and one  
10 to three part-time jobs to local residents and the business taxes on it will help to support  
11 the City. It is likely that Subway patrons would still go to other nearby restaurants for the  
12 sake of variety. An additional benefit would be the reduction of traffic into and parking in  
13 the downtown area.  
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23 Finding Six, formula retail establishment will contribute to an appropriate balance  
24 of small, medium and large size businesses in the community. The Subway will just add  
25 another small size business, which is an appropriate balance.  
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30 And the seventh finding is (inaudible) use, together with its design improvement,  
31 is consistent with the unique historic character of Sausalito and would preserve the  
32 distinctive visual appearance and shopping experience of Sausalito for its residents and  
33 visitors. The building exists; adding a Subway to it it's not going to change exterior  
34 ambiance of the neighborhood. As mentioned previously, the location is visually  
35 screened from surrounding areas. Subway's sign will be the only exterior impact to the  
36 building and that will match other local signs. The building will also be improved through  
37 Subway's use. The existing floodlights are going to be removed and replaced with small  
38 spotlights. The existing hideous chain link fence trash enclosure will be replaced with a  
39 nice wood and trellis trash enclosure. And the interior of the store, as I mentioned, will  
40 be done with a unique décor and ambiance.  
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And I'm available for any questions.

CHAIR KELLER: Any questions of the architect?

COMMISSIONER KEEGIN: I had at least one question and that is with respect to the signage, which is part of the Staff Report.

ROBERT VAN HALL: This was done in response to that.

COMMISSIONER KEEGIN: In response to?

ROBERT VAN HALL: This revision was done in response to the Staff Report.

COMMISSIONER KEEGIN: So that the sample signage is no longer part of this application?

ROBERT VAN HALL: That's true.

COMMISSIONER KEEGIN: And you are going to submit a different detailed example of your signage proposal?

ROBERT VAN HALL: Yes.

COMMISSIONER KEEGIN: That's a question...

ROBERT VAN HALL: It would be per that, as shown on that drawing. Want me to take it down and pass it around?

COMMISSIONER KEEGIN: Yeah, that would be terrific.

COMMUNITY DEV. DIR. GRAVES: In order to clarify Staff perspective on this, since a sign application was not submitted as part of this application the Staff has not reviewed in detail the proposed sign, and obviously the applicant would need to submit and application for a sign permit and it would have to come back to the Planning Commission for separate approval.

ASSOC. PLANNER BURNS: Additionally, the interior modifications to the building haven't been analyzed by Staff as well and therefore our recommendation doesn't reflect what's being proposed.

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CHAIR KELLER: Just out of curiosity, the architect is telling us that the franchisee has got wide latitude as to what they can or cannot do, and I would assume that they're under certain obligation to Subway, as a franchisee there are certain limitations, and has Staff reviewed the franchisee's contract with Subway as it pertains to design, signage, et cetera? I hear what you're saying, but until we're able to review that and we have assurances that there is wide latitude, I'm going on your word and unfortunately, you look like a very honest guy, I'm sure you are, but the thing is you're not the owner of Subway. We have the franchisee here and we haven't seen a contract, or at least Staff and our legal department hasn't seen it, and I don't feel comfortable from that standpoint. I'd like Staff to be able to review that.

ROBERT VAN HALL: Actually he's more than a franchisee, he's a development agent, so that's like the whole area master franchise. Auki Patel is the...

CHIRAYA PATEL: I'm the proposed franchisee for the location.

CHAIR KELLER: Please identify yourself.

CHIRAYA PATEL: Auki Patel, proposed franchise for 1907 Bridgeway. There are things we can change to fit the Sausalito character if we have to, as Robert brought some samples. We have a wide variety of things, like signage is one of the things we can definitely... We have done it in the past and we can do that. Same thing applies for the interior. I'm sure there is a sandwich counter and backside of the things like cooler and freezer are freestanding in most of the restaurants, but the exterior where the customer can see that, that could be changed.

VICE-CHAIR BAIR: I don't know that I have a questions, it's more of an observation. I think I was the only one of us who was here on the prior... Were you here?

CHAIR KELLER: I was here.

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1 VICE-CHAIR BAIR: Okay, so we were opposite sides of the issue then.

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3 CHAIR KELLER: No, not...

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5 VICE-CHAIR BAIR: I think we were, because it got sent back. It was two-one. I  
6  
7 know where I was on it, and so...

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9 CHAIR KELLER: We didn't even really take it to a vote. We didn't take it to a  
10  
11 vote.

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13 VICE-CHAIR BAIR: Well, there was a sense that it wasn't going to come. I got  
14  
15 the sense from the Staff Report that they wanted to know how we're going to deal with  
16  
17 the formula retail issue. I don't see that as necessary. I think we've got to decide that  
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19 before we decide the design review stuff. I mean that's kind of where I'm at right now is  
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21 the sense that I got sitting up here, and maybe it was wrong, but they went away in  
22  
23 June of last year and now they're back six months later, I get the sense from the broker,  
24  
25 and I did last time, that she's frustrated with the whole thing. We're kind of getting the  
26  
27 overall Subway is a good thing sort of pitch here, and the sense I'm getting is that it's  
28  
29 because are we going to get over the hump on the formula retail thing? Can they  
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31 present us something that is going to get us over the hump here, and so I don't know. I  
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33 mean my own sense is we need to be discussing that, because we don't have a design  
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35 in front of us, and so that's where I am. I mean I'm comfortable talking about if I think  
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37 this project just in a conceptual way will be entertained that Subway just isn't going to be  
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39 dismissed out of hand, and I don't know that that's the way it happened last time but I  
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41 mean I think that's what these people took away from it, and I have the sense that the  
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43 report was, that's why we're back here six months later, because they were waiting for a  
44  
45 full commission, but that's just my observation on things.

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48 CHAIR KELLER: Okay. Unless there are any other questions of the applicant at  
49  
50 the moment, why don't we open it up for...

1 ROBERT VAN HALL: We had another speaker on our program.

2  
3 CHAIR KELLER: Okay.

4  
5 JERRY NEEDLEMAN: I'll try to be brief. Both Ken and I will try and speak here.

6  
7 My name is Jerry Needleman; I'm a co-owner along with Ken Niles. We built the project  
8  
9 43 years ago; it was 1966. Don Olson was the architect at that time. We have been  
10  
11 owners ever since. I've lived in Sausalito for over 35 years. I mention these facts only to  
12  
13 establish that we are stable, solid owners and we are interested in providing good  
14  
15 business that will help the Sausalito community.  
16

17 I would like to just briefly mention this business of, and I won't go into all these  
18  
19 facts, but the one about the fast food situation is the fact that this is a unique product,  
20  
21 and I didn't even realize it until I went recently to eat at a Subway restaurant and it does  
22  
23 provide a unique service. It is nutritious in the sense that they do provide about seven  
24  
25 sandwiches that have six grams of fat or less in the realm of 300 calories, and there are  
26  
27 very few restaurants anywhere that provide this. Not only do they provide it, but they  
28  
29 promote it. They have these facts in their restaurant and they even have them on the  
30  
31 napkins, which I was pleasantly surprised to see. I noticed a letter from a couple of  
32  
33 physicians that said they were concerned about cancer and heart disease and obesity,  
34  
35 and I can tell you I'm also a physician and I take the exact opposite view in terms of the  
36  
37 Subway product.  
38

39  
40 In terms of one other factor I would like to address, and that is the strip mall  
41  
42 situation. It's sort of a derogatory term and I'm not sure it really applies to this location.  
43  
44 These units have approximately 5,000 square feet, and I was trying to find a definition of  
45  
46 "strip mall" and I looked in Wikipedia and it did give a range 5,000 to 100,000 as a  
47  
48 model, and in terms of the use of the word "strip mall" I would tend to question that  
49  
50 usage. It is three units in one building. The proposed Subway is only 1,200 square feet.

1 As has been mentioned previously and as you are aware, it is not that visible from the  
2 street. It is certainly not on Bridgeway itself. The appearance of the building will not  
3 change substantially from when the drycleaner or the beauty parlor was there; there will  
4 still be the same building and basically the same appearance.  
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8  
9 The Subway clientele, and I think Ken will very briefly mention this, but I'm  
10 surprised to know that a lot of people in the area are very interested in having a Subway  
11 in that area. About three out of four people that buy at Subway take their sandwiches  
12 away; they don't stay there to eat. It is not a long-term parking situation.  
13  
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16

17 Other subjects, I don't need to go into in terms of the formula retail, obviously  
18 that's been addressed, and so with that I will conclude and briefly let Ken Niles, the  
19 other co-owner, speak to you. Thank you.  
20  
21  
22

23 KEN NILES: My name is Ken Niles and as Jerry mentioned he and I developed  
24 this property 43 years ago. I feel very strongly that it's important to find out what the  
25 people think about having this type of food service in this building, so I walked the  
26 neighborhood and I also spent some time talking with people in the office buildings  
27 across the street. I interviewed about 20 people in the neighborhood, Spring Street,  
28 Napa and other areas within that 300-foot radius, and out of the 20 people, 17 were in  
29 favor of having a Subway come in. Three were against. I got letters from those who  
30 were for, which I will present, and the three people that were opposed wouldn't give me  
31 a letter.  
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41 But the point being is that I think it's important to Sausalito to know that there's a  
42 lot of support from the consumer. In going across the street to the office building area I  
43 interviewed people there and got some comments and circulated a letter to many of the  
44 tenants in those buildings, and in fact I'd like to just spend about one minute reading the  
45 letter. It says, "Dear Planning Commission, We would like you to vote in favor of  
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1 allowing Subway to locate in the vacancy at 1907 Bridgeway. We are located nearby  
2  
3 and believe Subway would be an asset to our neighborhood as it offers a healthy  
4  
5 alternative plus the convenience of a very reasonably priced meal. This space has been  
6  
7 vacant for two years and although the City may have restrictions against a chain store  
8  
9 image in its historical downtown, the Easterby location is not applicable and could not  
10  
11 possibly have a negative effect on the image and character of Sausalito,” and we all  
12  
13 know where the character of Sausalito is: it’s not a Easterby and Bridgeway, it’s the  
14  
15 other part of town. We’re removed three-quarters of a mile from the downtown historical  
16  
17 area and we’re trying to serve the community in that neighborhood. Ninety people  
18  
19 signed this letter and I think I have 12 from the neighbors that I walked around; I’d like to  
20  
21 present them to the Staff for their review. But that tells me a lot, and that happened in  
22  
23 one day. Ninety people in support of this. They said they could walk across the street;  
24  
25 they’d love to walk across the street and get a sandwich for under four dollars. We can  
26  
27 provide that.  
28

29  
30 I know I’m getting off the subject with this ordinance that is against this kind of  
31  
32 image, but we’re not presenting this image. The photograph that you have in front of  
33  
34 you is what this building looks like today. It’s very, very, barely visible. It’s pretty  
35  
36 because of the trees and the other building, but the previous image that the Staff put up  
37  
38 was Don Olson’s original rendering, which I asked him to draw 42 years ago. This was  
39  
40 presented to the Planning Commission, and if you look at that image again, if you want  
41  
42 to present that, that’s Don Olson’s, I think, Mercedes Benz in front.  
43

44 ASSOC. PLANNER BURNS: (Inaudible) that was taken after the building was  
45  
46 constructed, so the date would make it (inaudible).  
47

48 KEN NILES: Well we built it in 1966, but the point being that’s how it looked.  
49  
50 There was no trees, there was no... You could see it. You can’t see it today, so if you’re

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1 concerned about the image of chain restaurants or chain whatever, it's not there. We all  
2  
3 know what it's like to drive by there. Driving south you can't see it. Driving north if you  
4  
5 look carefully you have about two seconds to see that building. The local people will  
6  
7 know where it is, they'll know where they can get a good sandwich at a reasonable  
8  
9 price, and we're not in any way in my opinion affecting negatively any character and  
10  
11 quality and uniqueness of Sausalito. We care about this community just as much as  
12  
13 anybody in this neighborhood, anybody in this room, so maybe we're asking for a  
14  
15 variance or a condition or whatever it may be, but this is an important consideration.  
16

17           On the financial side, I know that's not your concern, but it is a concern of ours. If  
18  
19 we had to go out and borrow money today, a normal mortgage, we have one-third of our  
20  
21 building vacant, we would barely be able to pay a mortgage payment. Now fortunately  
22  
23 we don't have to do that, but people have to do that, and if we continue for another one  
24  
25 or two or three years, there's some financial irregularity if we're turned down because of  
26  
27 this ordinance that we think we comply with. So thank you.  
28

29           COMMISSIONER STOUT: Could I ask you just one question? The people that  
30  
31 you spoke to across the street, how many of them are Sausalito residents?  
32

33           KEN NILES: I don't know how many are residents. The letters I have that I  
34  
35 walked around the streets were all residents and I'll present those to the Staff.  
36  
37

38           COMMISSIONER STOUT: Okay.  
39

40           CHAIR KELLER: And how are you at dealing or addressing your anchor tenants'  
41  
42 concern or negativity about Subway?  
43

44           KEN NILES: We had a condition in the Southland lease that talked about a  
45  
46 delicatessen sandwich. The corporation agreed that it would be okay to have a  
47  
48 delicatessen sandwich Subway there. The franchisee wrote a letter saying he didn't  
49  
50 want it. It's one person.

1 CHAIR KELLER: But he's still the operator and he's quoting that it's going to  
2  
3 cost him \$18,000 in revenue, so your argument about the economics of this... I don't  
4  
5 want to get into that, we're really dealing with... I mean I can go at you in a lot of  
6  
7 different ways and I don't want to. I think our decision is going to be based on whether  
8  
9 or not this is formula retail or not.

10  
11 KEN NILES: I understand that.

12  
13 CHAIR KELLER: I respect the fact that you've had a vacant space for an  
14  
15 extended period of time. I respect the fact that you've walked the neighborhood. I would  
16  
17 suspect that the majority of the people that you contacted in the buildings across the  
18  
19 street are not Sausalito residents. I'd be curious to know how many Sausalito residents  
20  
21 have signed that in favor. That's more important to us in terms of the definition of a  
22  
23 formula retail.

24  
25 KEN NILES: I understand that, but it also does serve a need and I think  
26  
27 everybody needs to be concerned about that, and I could certainly if necessary counter  
28  
29 the statement of the loss of the Southland franchisee because we believe that his  
30  
31 business would be improved and it's been proven time and time again that their  
32  
33 business does become improved, so we can testify to that.

34  
35 CHAIR KELLER: He's also got the issue of parking. I mean I'm just throwing this  
36  
37 out. I mean you've got your primary tenant who is the lion's share of your revenue who  
38  
39 is upset having another food establishment come into play, and particularly in light of  
40  
41 the parking situation.

42  
43 KEN NILES: His employer is not concerned. That's all I can say, because  
44  
45 they've found also that a Subway helps their business in other places.

46  
47 COMMISSIONER COX: If we ever get that far I would want to see that verified.

48  
49 KEN NILES: We can give that to you.  
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CHAIR KELLER: Okay. Thank you.

KEN NILES: Thank you very much.

CHAIR KELLER: So it's time for public comment. Can I see a show of hands of how many people who have not yet spoke are here to speak on this particular issue? Looks like about five. So if you wouldn't mind coming up and you've got three minutes to let us know how you feel about this. Chuck, you're in the front. Come on up.

CHUCK RUBY: Good evening. I'm Chuck Ruby; 654 Sausalito Boulevard. Been in town, my wife and I, at this location for about 35 years. I'm a little familiar with this location, because I sat up there for about seven years, and the pay is better up there but it's more freedom back here. You guys still get paid?

CHAIR KELLER: That must have been a long time ago.

CHUCK RUBY: It was a long time ago. I first became acquainted with this subject sometime in the last year when I drove by this. I pay attention to properties in Sausalito, it's one of the legacies of sitting up there, and I noticed the sign saying Subway was going in and I thought to myself that's a good idea. It's a good product. I use it. I like it. But as the "Opening Soon" sign started to fade I wondered what was going on, and then very recently my neighbor, Jerry Needleman, who knew I had been on the Planning Commission, said that he was involved in this, and knowing that I had been on the Planning Commission he asked me for my opinions on this and he gave me a copy of the June minutes and the current Staff Report, and I must say that both of those were very good quality.

I thought the statements that the Commission had in June were right on, I thought that the Staff Report did their job very well, but flowing through all this is the general sense of coming to grips with the formula retail issue. That's the only one I

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1 really want to talk about, because that's the one that I would be worrying about if I was  
2  
3 sitting up there.  
4

5 Now I served on the Planning Commission, I was Chairman, at the time we did  
6  
7 the General Plan back in 1988 through 1995, and the issue of this thing, it wasn't called  
8  
9 formula retail at that time, it was given other names, it didn't have that type of  
10  
11 nomenclature, but it has always been an issue, it's not a new issue. It was discussed  
12  
13 under various things and nothing came of it, and the reason that nothing came of it was  
14  
15 probably because nobody knew how to deal with it. There has always been a general  
16  
17 feeling in this town, every politician, every person that runs for Council, everybody that's  
18  
19 been on the Commission probably thinks they'd like to preserve the character and  
20  
21 charm of the City. How to do that has always been the issue and that's why nothing was  
22  
23 put in the General Plan, because you can't come up with something to do that. I think  
24  
25 most people came to the conclusion that this is going to have to be solved by the other  
26  
27 things that are already in force, namely the historical landmarks rules, the signage rules,  
28  
29 the parking and traffic rules, the merchandise classification rules that go into the various  
30  
31 commercial districts, and that would take care of it, and I think it has pretty much. I don't  
32  
33 recall that we've had an influx of a lot of this type of problem.  
34

35  
36 (Timer sounds.)  
37

38 CHUCK RUBY: Could I have a little more time?  
39

40 CHAIR KELLER: Sure, as a former Chairman of the Commission, I will give you  
41  
42 more.  
43

44 CHUCK RUBY: Thank you, present Chairman. And so this has always been an  
45  
46 issue. As a matter of fact there was one group that came to town called Timberland or  
47  
48 something. They were here for a while and they left. So this is not exactly a drawing  
49  
50 card for a lot of these areas, but my feeling was at the time, and this is my own personal

1 opinion was what was going down 15 to 20 years ago, was the reason the people didn't  
2 like the problem with this type of thing is that first of all, they want to maintain the  
3 business size scale. They want to prevent garish economic environmental structures,  
4 advertising and interventions of these types of things. They want to prevent undesirable  
5 merchandise from occurring. They want to prevent the displacement of commercial  
6 businesses that currently provide local businesses and displacing those by businesses  
7 that are not of a commercial, local nature, kind of like the Caledonia system. But all that  
8 adds up to they don't want to have something that looks like a Coney Island kind of  
9 situation.  
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18  
19 Now having said that, what the City did in 2003 was come up with something to  
20 put this in terms of formula retail. None of the conditions that I thought were the reasons  
21 people didn't like this type of thing has to do with the ownership, and somehow this  
22 became an issue of ownership, franchise or local or foreign. I don't really see that that's  
23 relevant. That's not really accomplishing what I think the City is trying to accomplish,  
24 although that's an indirect way possibly of dealing with it, and it allows the issues to  
25 come before bodies like this to make decisions. That's maybe very good. But I really  
26 think that this particular proposal, you could replace it with a sign that said, "Sausalito  
27 Sandwich Shop," and you'd be in almost the same situation as you are now, except it  
28 says "Subway." If this came before you as Sausalito Sandwich Shop, would there be  
29 much of a discussion? I think the group here that's made its presentation, I have not  
30 met these gentlemen except Mr. Needleman, until I saw them tonight, seems to me  
31 they're willing to lean over totally backwards to provide this as a Sausalito type of sign  
32 and a Sausalito type of operation.  
33

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48 You have other ways of controlling this. You have hours of service, you have  
49 signage, you have other things you can do, but I don't think that the so-called formula  
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1 retail is the devise. Now having said that—I'm going on and on because I've thought  
2  
3 about this subject for at least 20 years—I didn't like people that came before me when I  
4  
5 was sitting on your side tell me why they don't like something and don't have any  
6  
7 solution to it. So I'm going to suggest that maybe you can rationalize this in your mind a  
8  
9 little bit that we are coming up for shortly a new General Plan revision. At that time we  
10  
11 might give some consideration to being a little bit more specific about the merchandise  
12  
13 conditions in the various areas. For example, the idea about formula retail might be  
14  
15 different in Caledonia and uptown Bridgeway, and that is in the northern part of town; I  
16  
17 think that was suggested by one of the other persons. So I think there are ways to get  
18  
19 around this that are really not the subject of this night's deliberation, but there are ways  
20  
21 to solve this and I would hate to see this killed on the basis of this particular provision,  
22  
23 Section 10.44.2440-D, which was I think trying to accomplish a good purpose with good  
24  
25 intentions, but has really come up to block something which seems to me not really  
26  
27 quite right, and I'd be willing to discuss this anymore if you want to ask me how I came  
28  
29 to some of these conclusions.

30  
31 CHAIR KELLER: Any questions of Chuck at the moment?

32  
33 CHUCK RUBY: Good. Thank you.

34  
35 CHAIR KELLER: Thanks, Chuck. I saw four other hands. Yes, sir.

36  
37 BERT DAMNER: My name is Bert Damner and I live up on San Carlos. I'm a  
38  
39 new resident of two years, but I did live here in the 60s for about five years. Love  
40  
41 Sausalito; I'm very happy to return. I've known Mr. Niles and Mr. Needleman for a long  
42  
43 time.

44  
45 I actually agree with the gentleman that just was here before that I think you're  
46  
47 maybe not looking at issues for this particular use properly. I have been in commercial  
48  
49 real estate for 40-plus years of my career and I think cities today have to think about  
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1 their long-term future. (Microphone goes out.) And as I go through the town and look at  
2  
3 some of the other national chains that are here that are viable (inaudible) and I think  
4  
5 that that's important to think about, and I'm worried about towns like Vallejo and  
6  
7 (inaudible).  
8

9 CHAIR KELLER: Excuse me. I'm wondering about the microphone you're  
10  
11 speaking into. We're not picking it up right. This is being recorded, so I want to...

12  
13 COMMISSIONER COX: You've got to change the battery.

14  
15 (Pause while microphone is repaired.)  
16

17 BERT DAMNER: Is that better? Do I start again? I'm Bert Damner; I live here in  
18  
19 Sausalito on San Carlos. I've known Mr. Needleman and Mr. Niles and I lived here a  
20  
21 long time ago for five years, returned two years ago.  
22

23  
24 One of my concerns, as I see other national retail here in this town that are  
25  
26 mostly north end, although I'm surprised with this issue with Starbucks downtown that  
27  
28 this very small restaurant in what I call non-commercial area is being challenged, and I  
29  
30 think it's being challenged because you're concerned about the future, that other people  
31  
32 might come into the city and try to establish in a national retail basis.  
33

34 But I look at cities today and I'm worried about the viability, like a Vallejo is with  
35  
36 costs, and when you turn down people will it be here. Since I've been here in two years  
37  
38 I think the following restaurants or businesses have closed: This 'n That is gone. The  
39  
40 space upstairs as long as I've been here, which used to be the Purity Store that I  
41  
42 remember when I lived here a long time ago as a boy, is gone. The little doughnut shop  
43  
44 is closed. The Northpoint store that also provided Northpoint Coffee Shop just closed.  
45  
46 And I think you have to look at and think about it in your responsible position as what  
47  
48 can you take? If you can get a good long-term tenant in this town, and I don't think what  
49  
50 they're proposing is that much against what you've been asking for, and that is they're

1 going to I guess follow the rules or signage. They're not in a very high visibility location.  
2  
3 It's 1,200 square feet. I'm guessing you have about 250 commercial tenants in this  
4  
5 town; you have four or five national, being UPS. Visible Sign right at the other end of  
6  
7 Sausalito provides a great service; they'll always be here. Shell gas, which is pretty  
8  
9 darned important for all of us compared to the other gas station, and I think you wonder  
10  
11 sometimes if you get good gas there.  
12

13           So I think you should consider this seriously. I recommend it. I've talked to some  
14  
15 people who are my neighbors. They didn't send letters, but they all said this is a good  
16  
17 use. And I think what Jerry pointed out, the health issue is good. Anyway, I've seen my  
18  
19 time is running out. I'm not sure if that was on the original schedule or not. I apologize.  
20  
21 Good luck.  
22

23           CHAIR KELLER: Thank you for your comments.  
24

25           TED GOLDBECK: Good evening. My name is Ted Goldbeck and until recently I  
26  
27 lived at 2 Spring Hill Drive, which is right up the street, and I'm probably one of the few  
28  
29 people in here that is a customer of both Subway and 7-Eleven. I get my coffee there, I  
30  
31 buy my lottery ticket there, and I get an ice cream cone there.  
32  
33

34           Now anybody in this room that thinks that they're going to cut down on 7-  
35  
36 Eleven's hot dogs because Subway is there has a little problem with food. It just seems  
37  
38 we need a sandwich shop in this town that people can afford. On Caledonia there's only  
39  
40 one sandwich shop, and while he makes the great sandwiches and it's a great  
41  
42 delicatessen, it's expensive. And one of the reasons you brought up is how many  
43  
44 people signed the letter that don't live here in Sausalito? Well those of us that live here,  
45  
46 we're damned fortunate. Most people can't afford to live in this town, and so we need  
47  
48 these places. That place has been vacant for two years.  
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1           These people are doing as much as they can to accommodate you, and it seems  
2  
3 to me they're running into just a wall, and I think you should take some time and think of  
4  
5 both Mr. Niles and his partner and Subway and how substantial all these companies are  
6  
7 and what they want to do for this city.  
8

9           Plus the fact that in the next couple of years times are really going to get lean,  
10  
11 and if my figures are right, you're just about or have lost nine businesses downtown.  
12  
13 Now pretty soon we'll be sitting in this room with candlelights if we don't get some  
14  
15 common sense. Thank you.  
16

17           CHAIR KELLER: Mr. Goldbeck, can I get you to sign a speaker card? Thank  
18  
19 you.  
20

21           SONYA HANSON: My name is Sonya Hanson; I live on Spring Street. Good  
22  
23 evening, Commissioners.  
24

25           So far we've heard from the supporters of the Subway, and I have concerns as a  
26  
27 local resident. I do take some exception to comments like, "The character not at  
28  
29 Easterby and Bridgeway, but downtown." We have a unique character at Bridgeway,  
30  
31 Spring Street, Easterby. We're part of Marinship, we love our neighborhood, we've got a  
32  
33 great neighborhood, and most of us in that first block of Spring Street have some  
34  
35 objection to the Subway.  
36  
37

38           We live with a 7-Eleven at the bottom of our street. One of the main factors, if I  
39  
40 read this correctly, and it's already been discussed, is the overconcentration of formula  
41  
42 retail. We have a 7-Eleven at the bottom of the street. Now it sounds like we may well  
43  
44 be having a Subway. I think for a residential area we're having some overconcentration.  
45  
46 I am sympathetic with the owners of that property, however they are in a neighborhood  
47  
48 that's residential.  
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Across the street I understand there are office buildings. Those people don't live in this town. I sympathize with their request for a cheaper meal, however one of my big concerns is that the Subway will provide that cheaper meal at the expense of I suspect some of our local businesses that do not have the opportunity of buying from a large bank, which is what happens when you have a formula retail; you can purchase at a much reduced price. That's not true for the local businesses that are the Mom and Pops, so I have some concern about that.

I am glad to hear that at least the Subway is talking about being somewhat unique with signage and maybe trying to fit into the neighborhood, but I still think it's not a clear cut case that they should just be approved without some consideration for the neighborhood around them, and we do have some concerns about it.

Also there is a Subway one-point-three miles away opening, I believe under the same ownership, next week in Marin City.

The parking that you're talking about, that public parking in front that you're looking at, if you look any day it's almost always filled with commuters, so you're not going to have that parking for the Subway if parking is a concern. You're looking at the parking in front of those buildings, not the parking on the other side. Thank you.

CHAIR KELLER: Thank you, Sonya.

ANDY KOSTER: Good evening. My name is Andy Koster; I'm a resident of 534 Spring Street, so I'm just up the hill a little ways from the property we're talking about.

My primary concern really revolves around the unique character of the Spring Street and Easterby neighborhood there, and it is true I feel very fortunate actually to live on Spring Street; I've lived there since 2002 and would like to stay there.

But first and foremost I'm concerned about what this... I guess I'm just not convinced it will actually help the neighborhood. I also work in the neighborhood down

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1 in one of the office buildings across Bridgeway here and I can tell you that it's true, most  
2  
3 of the people that are over there, they live in San Francisco and some up in Northern  
4  
5 Marin, but I'm one of the few people, at least where I work there of 150 people, that live  
6  
7 in the neighborhood.

8  
9 I'm concerned about what it's going to look like at 10:00pm, what that parking lot  
10  
11 starts looking like. I'm concerned about the smell of a Subway, because they bake  
12  
13 bread all the time and there is a smell, and I'm concerned about how that affects the  
14  
15 surrounding neighborhood. I'm concerned about potential litter. I want to say I'm not just  
16  
17 hard and fast against it and I really do appreciate the attempts at trying to blend with the  
18  
19 neighborhood and being sensitive to the local charm, if you will, so that's a good thing.  
20  
21 But I guess when it comes to there's been some talk about a strip mall, I kind of feel you  
22  
23 put a Subway in there, it is what it is, that's what you're going to get.

24  
25 These are complex issues. I have a lot of sympathy for the owner of the building  
26  
27 as well, I really do. But I live there, I live right there, and I can tell you also that one thing  
28  
29 to consider is that Saylor's, having opened on the other side, brings in a lot of traffic, so  
30  
31 generally in the evenings up Spring Street most of the spots are filled with Saylor's  
32  
33 customers, and I know because I hear them coming and going all night long. I hear their  
34  
35 conversations. I don't know how that's going to help, but yeah, I just wanted to voice my  
36  
37 thoughts and thank you for hearing them. Thank you so much.

38  
39  
40 CHAIR KELLER: Thank you very much. Anybody else in the audience who  
41  
42 hasn't had a chance to speak on this issue? I think the applicant pretty much used up  
43  
44 their 15 minutes unless we want to hear more from them, rebuttal or anything, or should  
45  
46 we bring it back up here? How do the commissioners feel about it? Bring it up here?

47  
48 COMMISSIONER STOUT: That's what my suggestion is. You know what? I'd  
49  
50 like to start.



1 CHAIR KELLER: Okay, so we're going to close public comment and bring it up  
2  
3 here for discussion amongst us and maybe we can come up with a decision. You want  
4  
5 to start, Eric?

6  
7 COMMISSIONER STOUT: Sure. First, I have nothing against Subway or their  
8  
9 food, what they do. I mean I love it for layovers in the airport. But this is my main  
10  
11 concern. I previously lived in Massachusetts; I'm a landscape architecture student from  
12  
13 the university there. We studied this exact scenario, and what the formula retail really  
14  
15 does, by being a franchise you have to get food from where they tell you to get your  
16  
17 food. Our think group was called "Think Globally, Act Locally," and what we found is  
18  
19 these formula retails, they bring in food from Mexico, they bring it from far off distances,  
20  
21 it's usually of a very low quality food. Yes, it's green vegetables, that's (inaudible) to be  
22  
23 said. The one thing that we're concerned about by letting a retail like that in is we're  
24  
25 going to lose out everybody else in California and the surrounding farms, and when you  
26  
27 bring that in it actually brings down the vitality and it's not good for our town. The vitality  
28  
29 of our town is a response to everybody that's in our local area, and that means all of  
30  
31 California, and that's the way I look at it. By letting a Subway come in and allowing a  
32  
33 Conditional Use Permit for this Subway to come in, it would create large trucks with  
34  
35 deliveries that go regionally, and whereas if it was a local restaurant, they get all their  
36  
37 produce locally from smaller venders. That way it's less traffic there.

38  
39  
40 The other thing that is a major concern is the Encroachment Agreement. I mean  
41  
42 it's a restaurant and you're going to need additional parking. We don't have it. I'm not  
43  
44 willing to give up public spaces that are available to our community for a restaurant that  
45  
46 it seems to me it's primarily going to be used by people that don't live in our community.

47  
48 With that and the idea of global warming and everything thing else and trying to  
49  
50 support American businesses, letting Subway in will not support American farmers,

1 American businesses and that ideal, so it is my opinion. I would have to say that it's  
2  
3 more the Encroachment Agreement that would make it just not viable for any parking.  
4  
5 With all the truck use it would just become a nightmare there and I think it would take  
6  
7 away from all the businesses in that area.  
8

9 CHAIR KELLER: Thank you, Eric.

10  
11 COMMISSIONER KEEGIN: I'm guess we can start with this side of the table for  
12  
13 a different view. I guess, and I agree with a lot of what Eric says. I will kind of direct  
14  
15 people's attention to what I've said before on this, and I apologize for suggesting you  
16  
17 were on one side or the other. As I've reviewed the notes here it was actually an issue  
18  
19 of three of us and there was one clear person who was not going to go that way, and so  
20  
21 I apologize for that. I just knew where I was on the whole thing.  
22

23  
24 VICE-CHAIR BAIR: And I really do believe... I love the whole slow food  
25  
26 movement, I love that whole idea. I think this statute that we have is inadequate when it  
27  
28 comes to defining what this sort of...what are we calling it, something retail? Yeah. And  
29  
30 so I have trouble with that. As I pointed out before, I mean we obviously are allowing  
31  
32 them in. The statute, the ordinance, allows them in. You can pick Starbucks, you can  
33  
34 pick Le Garage actually I think has a separate place in the City.

35  
36 CHAIR KELLER: Different name.

37  
38 VICE-CHAIR BAIR: Different name, but that goes back to my argument on the  
39  
40 code, because of this brand or, you know, some are going to pick up. How do we go  
41  
42 about determining that? I mean I think it's inadequate that way.  
43

44  
45 Aside from just that technical aspect of this ordinance, I think at this particular  
46  
47 location I have a whole lot of trouble with a property owner who is sitting on an open  
48  
49 space, and with not a whole lot of options apparently, and what do you do? My personal  
50  
view here is that a Subway, if there's going to be one in Sausalito, this would be

1 probably as good a location as you could get for it in that it is unobtrusive. I'm not so  
2  
3 concerned about the parking, because if you have a sandwich shop there... I think  
4  
5 expanding this to call it a restaurant, I tend to believe it's more consistent with what I've  
6  
7 seen in Subways before is people come in, they buy their sandwich, they go wherever  
8  
9 they're going to go. It tends not to be as much of a sit down as you get even at Fred's  
10  
11 next door or Saylor's a little bit further down that's going to impact the neighborhood,  
12  
13 and so I don't see the parking as an issue that way.

14  
15 I think a bigger one is I really think we really need better direction here in terms of  
16  
17 what we've looking at, and I would think it would be great if we would have some of the  
18  
19 factors that you're talking about in terms of restaurants, because to me, just kind of  
20  
21 responding real quick, we could have Sausalito Sandwich Shop go in there, and they're  
22  
23 buying from Cisco and all those guys, whoever the big distributors are that come around  
24  
25 in their trucks. They're buying from big operations. Starbucks, I'm not aware that they  
26  
27 are buying... They have some of the fair trade stuff these days, but I don't think  
28  
29 they're... My understanding is unless it's clearly labeled that way. You know, we had the  
30  
31 same issues with them. We're not exacting those sorts of standards on people across  
32  
33 the board. I think we need to have something that allows us to be consistent other than  
34  
35 saying well we like Starbucks, but we don't like Subway, but we like, you know, Tre  
36  
37 Esse used to be a small chain, although I think now it's Taste of Rome and they've sold  
38  
39 that one off.

40  
41  
42 So I mean how do we do it here? I don't know, but I know on this particular one  
43  
44 and this particular three-unit project that I don't see that this particular brand, or this  
45  
46 formula retail establishment doesn't run afoul of any of these findings that I'm reading  
47  
48 here, one through seven. I mean I would support this project if it got to a design review,  
49  
50 and I think my sense of what the Staff is looking for is kind of where we are.

1 I mean if it was sandwich shop. That's the other thing. If it's Joe's Sandwich  
2 Shop, does this even come up to us if just retail operation comes in there and says, "We  
3 want to open a restaurant"? It comes up on the parking maybe. Does it come up  
4 otherwise?  
5  
6  
7

8  
9 ASSOC. PLANNER BURNS: A Conditional Use Permit is required for  
10 restaurants within the CN District, so the Planning Commission would review it.  
11  
12

13 VICE-CHAIR BAIR: I don't ever remember, maybe because it was a restaurant  
14 before. Like Le Garage for instance, I don't recall them coming up when they changed  
15 ownership, or maybe that was why.  
16  
17  
18

19 ASSOC. PLANNER BURNS: Well the previous approval for Schoonmaker  
20 actually included a restaurant, and so they replaced an existing restaurant, café.  
21  
22

23 VICE-CHAIR BAIR: But that's my feelings on this.  
24

25 COMMISSIONER STOUT: Just for the record, if I was up here when the  
26 Starbucks was up, I would have voted no as well.  
27  
28

29 VICE-CHAIR BAIR: Well, I assumed that would be the case.  
30

31 CHAIR KELLER: So Stan, what you're saying then is that there's a possibility  
32 that you could support this?  
33  
34

35 VICE-CHAIR BAIR: I support the concept in this particular retail structure given  
36 the history of not having a tenant in there for three years, the fact that I think that it is  
37 going to be a minimum, or that we can structure Conditions of Approval that will  
38 minimize the impact on the neighborhood. Also when talking about the neighborhood, I  
39 don't view this, when I'm making this decision, as simply that Spring Valley  
40 neighborhood. I think when we're making these findings as to these formula retails,  
41 we're really talking about the entire city, and so the fact that there may be two formula  
42 retails side-by-side to me is not as important as how they appear across the whole city,  
43  
44  
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SA  
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1 and I think in this situation you really have very few retail structures that would allow that  
2  
3 sort of thing, and so here that's another reason I would support it.  
4

5 COMMISSIONER KEEGIN: I think this is the most difficult application we've had  
6  
7 in the three or four months I've been on the Commission.  
8

9 CHAIR KELLER: That's why you got appointed.  
10

11 COMMISSIONER KEEGIN: And I'm struggling with the definition of formula  
12  
13 retail, because it seems to be it's made up of two parts, one of which I think everybody  
14  
15 understands and one of which is a little less clear.  
16

17 One is a business model. It seems to suggest here that if there is a formulaic way  
18  
19 of doing business that that is something that drops the application into something called  
20  
21 formula retail. So I believe there was mention by the architect that for example the back  
22  
23 room space of this particular facility was going to follow the franchise agreement in one  
24  
25 way or another, but that the sign wouldn't, the interior design would be unique, the tin  
26  
27 roof for example I'm sure you wouldn't find in any other Subway in the United States,  
28  
29 although maybe that's not so, and in our design review capacity it seems to me that at  
30  
31 least our primary focus is on the design issues, not on the business model issue, and  
32  
33 from a design point of view I think that this applicant has gone a great distance in  
34  
35 getting away from the formula that would otherwise identify a formula retail operation,  
36  
37 because I think most of us when we think about a formula retail operation we think of  
38  
39 the 7-Eleven sign at the other end of this building, we think about the Shell sign and we  
40  
41 think about the Starbucks sign. But we don't think of a Subway sign that is actually quite  
42  
43 removed from their logo. It doesn't have little arrows going into it and coming out of it,  
44  
45 it's not in their colors, it's not in their script style, it's not in Plexiglas, it's not in any of the  
46  
47 stuff that we think of when we think of formula retail, and in fact the only thing that would  
48  
49 make this a formula retail from a design point of view, it seems to me, is the fact that it's  
50

1 S-U-B-W-A-Y in that sequence, because other than that you wouldn't know it was a  
2  
3 Subway sandwich store.  
4

5 COMMISSIONER STOUT: I'm confused. I thought we were doing conditional  
6  
7 Use, and why are we talking about design? It has nothing to do with it. I mean the fact  
8  
9 that they make a green sign, that has no concern to me, it's what's going in there and  
10  
11 what products are there. What's the heart behind the project there? It's a corporate  
12  
13 heart. I like the local shop, the local owners who live in Sausalito or in Marin and who  
14  
15 know me or know my neighbors. I don't want someone like a Subway, when I think of  
16  
17 formula retail, that's just there to make a bottom line and follow a formula.  
18

19 COMMISSIONER KEEGIN: In this particular instance of course we do have  
20  
21 local owners of that particular...  
22

23 COMMISSIONER STOUT: They're not running the Subway.  
24

25 COMMISSIONER KEEGIN: No, but they are local owners of the building that it's  
26  
27 going to be in. I understand that there is an individual who is actually operating it, but  
28  
29 he's not operating it subject to a ridged formula other than behind the counter. It's a  
30  
31 sandwich shop. If you're saying you would not accept a sandwich shop there on a  
32  
33 conditional use basis, then I can understand your argument.  
34

35 COMMISSIONER STOUT: Well isn't that what we're arguing?  
36  
37

38 ASSOC. PLANNER BURNS: Staff would like to clarify that the proposed design  
39  
40 changes that were addressed tonight were really to demonstrate that this would be a  
41  
42 unique business within the City of Sausalito and potentially allow you to make the  
43  
44 findings. This project does not require design review by the Planning Commission. The  
45  
46 proposed façade changes would be approved administratively by Staff through a zoning  
47  
48 permit, and if the project does move forward with the recommendation of approval, then  
49  
50

1 a sign application would need to be submitted and then the Planning Commission would  
2  
3 review that design.  
4

5 COMMISSIONER KEEGIN: All right, so I stand a little bit corrected then. It  
6  
7 sounds to me that what you're saying is that we are in fact deciding whether this is a  
8  
9 kind of sandwich shop that is suitable for this particular location in this town.  
10

11 ASSOC. PLANNER BURNS: That's correct. And again, the solutions that were  
12  
13 addressed tonight are really to demonstrate that they could separate themselves from  
14  
15 the formula retail traditional logos and standards that would differentiate themselves  
16  
17 from being known as a formula retail.  
18

19 COMMISSIONER KEEGIN: So the question then becomes one of whether  
20  
21 formula retail standards apply to this sandwich shop.  
22

23 COMMISSIONER COX: We have to make all of these seven findings.  
24

25 COMMISSIONER KEEGIN: If it's formula retail.  
26

27 COMMISSIONER COX: No. Well, yes. Yeah. We have to make each of these  
28  
29 seven findings in order to approve a Conditional Use Permit.  
30

31 COMMISSIONER KEEGIN: For formula retail.  
32

33 COMMISSIONER COX: Yes.  
34

35 COMMISSIONER KEEGIN: And so my question goes back to where we started,  
36  
37 which is whether we have formula retail and if...  
38

39 COMMISSIONER COX: Well he read us the definition.  
40

41 COMMISSIONER KEEGIN: No, no, that wasn't the definition.  
42

43 COMMISSIONER COX: That's the purpose.  
44

45 COMMISSIONER KEEGIN: That's the purpose.  
46

47 COMMISSIONER COX: No, formula retail means...  
48

49 COMMISSIONER KEEGIN: That's Section A.  
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COMMISSIONER COX: No.

COMMISSIONER KEEGIN: B at the top.

COMMISSIONER COX: Yeah. That's what he read (inaudible).

CITY ATTORNEY WAGNER: Can I jump in here?

CHAIR KELLER: Sure.

CITY ATTORNEY WAGNER: Okay. Formula retail is defined in your Zoning Code.

COMMISSIONER COX: Right.

CITY ATTORNEY WAGNER: It is defined as, if you want me to read it.

COMMISSIONER COX: He has it right here.

CITY ATTORNEY WAGNER: "Retail sales activity or retail sales establishment, including food service, which is required to maintain any of the following: standardized formula array of services and/or merchandise, trademark, logos, service mark symbol, sign, décor, architecture, layout, uniform or similar standardized features." So the application comes in the door, we analyze it. Is it formula retail? Subway meets the definition of formula retail with the application that came in the door. Kicks you into these additional findings for a Conditional Use Permit. Then you get into the changes in the design, because they're trying to comply with these conditions that say you may be a formula retail, but can you be modified in such a way to change the visual, fit in with the community character, et cetera.

COMMISSIONER COX: So that we could issue a Conditional Use Permit despite the fact that it's formula retail?

CITY ATTORNEY WAGNER: Yeah, formula retail isn't banned in these districts.

ASSOC. PLANNER BURNS: That's right.

5A  
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1 CITY ATTORNEY WAGNER: Formula retail is allowable if you can make  
2  
3 additional findings.  
4

5 COMMISSIONER COX: But a concentration of formula retail is banned by the  
6  
7 General Plan.  
8

9 CITY ATTORNEY WAGNER: And that's up to your interpretation of whether the  
10  
11 location...  
12

13 VICE-CHAIR BAIR: What a concentration means.  
14

15 CITY ATTORNEY WAGNER: What a concentration means and whether looking  
16  
17 at this establishment if there is such a concentration.  
18

19 COMMISSIONER KEEGIN: One more question. Can you not design yourself out  
20  
21 of a formula retail by not coming within this definition?  
22

23 COMMISSIONER COX: I don't think that Subway can avoid being defined as  
24  
25 formula retail.  
26

27 COMMISSIONER KEEGIN: It doesn't say national chain here, does it?  
28

29 COMMISSIONER COX: No, but it does say standardized array of services, so  
30  
31 the very fact that every Subway store you walk into has the same lineup. You know,  
32  
33 here's your lettuce. It's all the same food. So if I go into the Subway in Marin City I'm  
34  
35 going to eat the same food that I'm going to eat in San Francisco, in Oakland, and in the  
36  
37 proposed. That's what makes it formula retail.  
38

39 COMMISSIONER KEEGIN: Because it's the...  
40

41 COMMISSIONER COX: Standardized.  
42

43 COMMISSIONER KEEGIN: ...standardized food service.  
44

45 COMMISSIONER COX: Among other things, but that's an example of what  
46  
47 makes it.  
48  
49  
50

1 COMMISSIONER KEEGIN: They've done away with all the other standardized  
2  
3 items.

4  
5 COMMISSIONER COX: Yes.

6  
7 COMMISSIONER KEEGIN: So it's just the standardize food.

8  
9 COMMISSIONER COX: I don't know that they're not going to have a uniform. I  
10  
11 don't know what their servers are going to wear. They usually wear a Subway uniform. I  
12  
13 don't know. If you look at the sign in the store right now that says, "Subway Coming  
14  
15 Soon."

16  
17 COMMISSIONER KEEGIN: Oh, I know that. That's not the sign...

18  
19 COMMISSIONER COX: It's the standardized logo.

20  
21 VICE-CHAIR BAIR: It occurs to me that we're talking about the real weakness of  
22  
23 this particular ordinance. We're sitting here saying we know what it is, and the reality is  
24  
25 what is it? Are we (inaudible), we know when we see it? I mean but we can't define it.  
26  
27 Yeah.

28  
29  
30 COMMISSIONER COX: I agree with Chuck Ruby that the ordinance as phrased  
31  
32 poses some challenges. However, we are bound by the ordinance as it is now phrased.

33  
34 CITY ATTORNEY WAGNER: And if I may, another way to look at it is it's  
35  
36 serving its purpose in that when you got a formula retail establishment that came in the  
37  
38 door, if you wished to allow it, they're trying to make the modifications that are required  
39  
40 under the ordinance to fit within the character of the community. Obviously it's up to you  
41  
42 as to whether or not you agree that those are sufficient to allow it to be located, but in  
43  
44 some ways it seems to be working, because it's raising the very questions that it's  
45  
46 designed to address.

47  
48 COMMISSIONER KEEGIN: Well I'll finish up by saying this is one of the more  
49  
50 difficult locations.

1 VICE-CHAIR BAIR: They need a little more than that, or they need a little bit  
2  
3 more.  
4

5 COMMISSIONER COX: I sympathize with the owners. I think that the impact of  
6  
7 having formula retail in that location would probably be less than having it even where  
8  
9 the Starbucks is on the north end of town. However, I cannot make a finding that the  
10  
11 formula retail establishment will not result in overconcentration of formula retail  
12  
13 establishments in its immediate vicinity, because 7-Eleven is right next-door, so in my  
14  
15 mind two out of three in the same shopping center is an overconcentration of formula  
16  
17 retail.  
18

19 If we get past the Conditional Use Permit I am not presently satisfied that I could  
20  
21 vote in favor of an Encroachment Agreement, because I patronize that area quite  
22  
23 frequently and often am challenged to find a parking space as it is. If we get past the  
24  
25 Conditional Use Permit issue I would need more information from the applicant about  
26  
27 how they would address the parking. I cannot see my way clear as I sit here now to  
28  
29 approving an Encroachment Agreement for public spots where those public spots are  
30  
31 virtually nonexistent because they're always full.  
32

33  
34 And my final issue tonight is that the plans that were put up on the board are not  
35  
36 the plans we have before us and not the plans that we're presently considering, so I  
37  
38 would need to see the actual plans. There's no pressed tin ceiling in our plans. The  
39  
40 finishes are different. The signage is different. I would I want the plans I'm reviewing  
41  
42 and approving to be consistent with ones that are being presented. Thank you.  
43

44 CHAIR KELLER: Well I'm not sure where we are vote-wise, but where do I stand  
45  
46 on this? I was on the Commission, and I don't know whether you were, Stan, when  
47  
48 BevMo! came before us.  
49

50 VICE-CHAIR BAIR: No, I wasn't.

1 CHAIR KELLER: Okay, I was on the Commission for that and I was adamantly  
2  
3 opposed to it. I think that forgetting about the Code and how it's worded, in the end it's  
4  
5 either going to be black and white or gray and there's always room for interpretation. I  
6  
7 would just like to throw this out. The owners have said that they built this shopping area  
8  
9 43 years ago, and no offense, but you could possibly consider what I see in shopping  
10  
11 malls today. They're all being retrofitted. The façade is being changed. It doesn't look as  
12  
13 if you've really done anything to upgrade the appearance of your overall shopping area  
14  
15 since you built it, and if I were a possible tenant I would be concerned about that.

16  
17 Here you're bringing to us an applicant who is trying to work within the  
18  
19 guidelines, but on a bigger scale I think I agree with many of the comments that Eric has  
20  
21 made. If you look at why people in Marin and around the state are against the Wal-  
22  
23 Marts coming in, the Targets coming in.

24  
25 Everybody says well it's a great product; it's healthy. I question how healthy it is.  
26  
27 Just because it's only 400 calories doesn't mean it's healthy. And it's inexpensive. Look  
28  
29 at the economics.  
30

31  
32 One of the reasons we have this in place with regard to the formula retail is to  
33  
34 encourage local establishments, and I look at the economics of a Subway coming into  
35  
36 that space. Yes, they're going to provide a product that people are going to buy,  
37  
38 because it's less expensive. I would agree with Eric. They buy in a regional area, so  
39  
40 they're probably not going to be buying healthy organic product within California, it's  
41  
42 going to be bought out of a central area, and I think in the long run it disadvantages  
43  
44 other individual businesses in town. They'll undercut other food providers, whether it's  
45  
46 Fred's down the street, there are other sandwich shops, there are other places that  
47  
48 people can go for lunch, people have a choice.  
49  
50

1           There's going to be a Subway in Marin City, and I go back to what I felt when I  
2  
3 was sitting up here and BevMo! wanted to come into town. I just can't get my arms  
4  
5 around allowing a Subway to come into town. I can't make all these findings. And I  
6  
7 appreciate the fact that you're trying to make it look a little different, and tonight it looks  
8  
9 like you're going quite a long way, but in the end you're still offering the same product  
10  
11 that every other Subway offers, and what is it? It's cheap and quote, "it's healthy,"  
12  
13 because it's got fewer calories.

14  
15           What I live in Sausalito for is the uniqueness of it and I wouldn't have voted in  
16  
17 favor of a Starbucks when it came here, I wouldn't have voted in favor of some of the  
18  
19 other stores. People have heard my comments before. I think it's obnoxious, these art  
20  
21 stores that we have downtown. They're chains, they're a dime a dozen, and they don't  
22  
23 bring any benefit to the residents of Sausalito. Yeah, it's a great tourist thing, but that's  
24  
25 about it. I respect the owners and I respect the applicant, but personally I just can't  
26  
27 make the findings to approve something like this based upon the way the Code is at the  
28  
29 moment. That's my opinion.

30  
31           VICE-CHAIR BAIR: I guess the question is procedural, it looks at least  
32  
33 (inaudible) to me, is what's best for them. I mean we could ask them to continue it, but I  
34  
35 think at a certain point they need to get our decision and decide what they want to do  
36  
37 with that, and I don't know that we're prepared to do that tonight, because it doesn't look  
38  
39 like we... I mean maybe I'm missing something.

40  
41           COMMISSIONER COX: Well that was an option. That was one of the options  
42  
43 provided to us was that we could deny, right?

44  
45           ASSOC. PLANNER BURNS: Yes, provides direction to Staff to prepare a  
46  
47 Resolution of Denial for the next meeting.  
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1 CHAIR KELLER: Well let me ask this and move this forward. Joan, what would  
2  
3 you need to see in terms of the findings and in terms of the applicant and owner for you  
4  
5 to approve this?  
6

7 COMMISSIONER COX: As the formula retail findings are presently construed, I  
8  
9 could not approve this, because I could not ever make finding two, that there's not an  
10  
11 overconcentration of formula retail establishments in the immediate vicinity. I mean I'm  
12  
13 sort of handicapped by my profession, I guess, but I just can't make that finding.  
14

15 CHAIR KELLER: And Eric, there's nothing that they could do really to change  
16  
17 your opinion of this?  
18

19 COMMISSIONER STOUT: No.  
20

21 COMMISSIONER COX: I appreciate everything else they've done. I could make  
22  
23 every other finding. Number seven, when I read the Staff Report I said no, but then they  
24  
25 came in with the new signage, they came in with the new décor, and I changed my mind  
26  
27 on point seven. Point two, 7-Eleven would have to move.  
28

29 VICE-CHAIR BAIR: Well, it's how you define a vicinity. What, are we talking  
30  
31 about a vicinity in 300-feet?  
32

33 COMMISSIONER COX: I mean from the air it's one building. You have two  
34  
35 formula retail under the same roof. That to me is immediate vicinity.  
36  
37

38 VICE-CHAIR BAIR: And there is precedent for formula retail, not that I'm arguing  
39  
40 one way or the other. I think it's an overly restrictive way of looking at it.  
41

42 COMMISSIONER COX: I agree.  
43

44 VICE-CHAIR BAIR: And I don't think it's required by that, but there is precedent  
45  
46 in the City. That Benetton right across from Starbucks for that matter, and so at least  
47  
48 another planning commission has seen that before.  
49  
50

1 CHAIR KELLER: Those were also put into place before this particular code,  
2  
3 which was 2003.

4  
5 COMMISSIONER COX: I mean even with my nay, that doesn't mean this fails.  
6  
7 I'm just saying as I presently read this, that's how I construe it.  
8

9 CHAIR KELLER: For me, I'm also hesitant on the Encroachment Agreement  
10  
11 with regard to parking. I go in and use the 7-Eleven. That parking lot is full most of the  
12  
13 time, and I think parking, they're layering on additional parking and saying we'd like to  
14  
15 put a Subway in and we can grant them an Encroachment Agreement because there's  
16  
17 an additional eight spaces, which they're City parking spaces and I can tell you, I agree  
18  
19 with Eric, they're full most of the time and at different hours. I think the parking would be  
20  
21 an issue and I don't feel comfortable with that.  
22

23  
24 And I go back to whether it's formula retail. The bottom line is that I think this is  
25  
26 going to negatively impact smaller businesses around the area, and yes, the shop could  
27  
28 do well, it's going to benefit the property owners, but it's going to disadvantage other  
29  
30 shop owners.

31  
32 So I mean I'm at a point where I guess where we're going to take this is probably  
33  
34 I'm going to recommend a denial.

35  
36 CITY ATTORNEY WAGNER: I'll just have to draw up a Resolution of Denial.  
37

38 CHAIR KELLER: Yeah.  
39

40 COMMISSIONER KEEGIN: Is that a motion?  
41

42 CHAIR KELLER: That's a motion. Do I have a second?  
43

44 COMMISSIONER STOUT: Second.  
45

46 COMMUNITY DEV. DIR. GRAVES: So the motion is to direct Staff to return with  
47  
48 a Resolution of Denial. Commissioner Stout?  
49

50 COMMISSIONER STOUT: Yes.

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COMMUNITY DEV. DIR. GRAVES: Commissioner Cox?

COMMISSIONER COX: Yes.

COMMUNITY DEV. DIR. GRAVES: Commissioner Keegin?

COMMISSIONER KEEGIN: Yes.

COMMUNITY DEV. DIR. GRAVES: Vice-Chair Bair?

VICE-CHAIR BAIR: No.

COMMUNITY DEV. DIR. GRAVES: Chair Keller?

CHAIR KELLER: Yes.

COMMUNITY DEV. DIR. GRAVES: Passes three-two.

CHAIR KELLER: No, four to one.

COMMUNITY DEV. DIR. GRAVES: I'm sorry.

CHAIR KELLER: Thank you. I'll just remind the applicant and owners, you do have the opportunity to appeal this to City Council after we adopt the resolution.

CITY ATTORNEY WAGNER: When the resolution returns to you at your next meeting and you adopt it, they'll then have ten days to appeal it. You have to actually see the resolution and make the findings in it.

CHAIR KELLER: Okay.

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SAUSALITO PLANNING COMMISSION

REGULAR MEETING

Saturday, January 28, 2009

Transcribed by: Vicki Blandin  
(510) 337-1558  
vblandin1@yahoo.com

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Then under Item C, in the italics it says, "The CN District" and I think it's intended to say the, "NC District".

Then at the end of that italicized paragraph, on the last line, the word "and" should be deleted.

And then under 2A, second line down, after the word "adversely" should be the words "affect the".

CITY ATTORNEY WAGNER: I'm sorry, Commissioner Cox, I'm not following where you are.

COMMISSIONER COX: Yeah, right now it says, "The Planning Commission finds that the Encroachment Agreement to allow the use of eight..."

VICE-CHAIR BAIR: Oh, okay. Yeah.

COMMISSIONER COX: So it should say, "adversely affect the availability of."

CITY ATTORNEY WAGNER: Thank you. I was in the prior paragraph and I thought it had already said that. You're right; it doesn't say it in the next one.

COMMISSIONER COX: Okay, and those were my proposed edits.

ASSOC. PLANNER BURNS: I'd like to clarify the that CN District is CN District, not NC.

COMMISSIONER COX: Okay, well then perhaps up above, because under 1A.

ASSOC. PLANNER BURNS: Oh, yeah. I think what happened was we were using the General Plan land use designation versus the zoning, so I apologize for that and we'll change 1A to CN.

COMMISSIONER COX: Okay. That's where I came up with it.

CHAIR KELLER: Commissioners have any other changes or recommendations?

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1 COMMISSIONER KEEGIN: I have a question just about the procedure. If a  
2  
3 Commissioner disagrees with one of the findings, but can agree with others, how is one  
4  
5 to vote in that instance? Are we going to vote on each of the findings?  
6

7 CHAIR KELLER: No. The vote has already been cast for denial, it was a four to  
8  
9 one vote. Unless a Commissioner strongly feels not in favor of one of those particular  
10  
11 findings, I just think that it's either a denial or it's not a denial in total.  
12

13 COMMISSIONER COX: Well, I kind of share Mr. Keegin's concern, because my  
14  
15 basis for denial was only that it was too many formula retails within surrounding areas. I  
16  
17 did not feel the appearance of the proposed restaurant was objectionable.  
18

19 CHAIR KELLER: But it's not going to change your vote, is it?  
20

21 COMMISSIONER COX: No, my vote is a denial.  
22

23 CHAIR KELLER: A denial is a denial. Sorry, Mary.  
24

25 CITY ATTORNEY WAGNER: I mean if there are specific findings that you don't  
26  
27 believe...if you don't believe these findings match your direction, then you should give  
28  
29 us direction to change them. Not being able to make one of the findings means you  
30  
31 can't approve the project. We typically add everything we think to a resolution, because  
32  
33 it strengthens the decision, particularly on appeal. If it were to go up you could look at  
34  
35 different components of it, although if it appeals to the Council, they're de novo. And it is  
36  
37 correct that you voted to have Staff bring back the Resolution of Denial, but you really  
38  
39 need to be able to support the findings that are in it, because it is the basis of your  
40  
41 decision. So we could either tinker with findings, you can give us direction, you could  
42  
43 put words into the minutes that indicate your personal preference, but you're still voting  
44  
45 for denial. There are a number of ways we can deal with it.  
46  
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48 CHAIR KELLER: I'd like to suggest that in light of the fact the Commissioner  
49  
50 Stout is not here, and that may in fact be one of the findings that he in fact agrees with,

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1 that if there are any of the findings that you don't agree with, I'd rather have that read in  
2  
3 the minutes and go ahead and make our vote. We have a Resolution of Denial, and I  
4  
5 think we should proceed with that and have your testimony in the minutes if there is  
6  
7 something you don't agree with.  
8

9 COMMUNITY DEV. DIR. GRAVES: If the item does get appealed to the City  
10  
11 Council, the transcription of the minutes will be forwarded to the City Council as part of  
12  
13 the package.  
14

15 COMMISSIONER COX: But it's my understanding from what Mary Wagner said  
16  
17 that the vote is a vote of denial with the findings as written, and that if I do not agree  
18  
19 with the findings as written, then I would abstain I guess, since I certainly am not voting  
20  
21 to approve.  
22

23 CITY ATTORNEY WAGNER: Well, you wouldn't abstain. We're either going to  
24  
25 change the findings; we're going to get direction from the majority of you that you don't  
26  
27 agree with Finding Blah and it needs to be changed.  
28

29 COMMISSIONER COX: You know what? If the majority of my colleagues agree  
30  
31 with all these findings, I will accede.  
32

33 CITY ATTORNEY WAGNER: If you would like to provide direction to the Council  
34  
35 where your decision making was, if in fact this is appealed, this would be the  
36  
37 appropriate time to do so, which you have indicated one of the findings is the basis for  
38  
39 your...  
40

41 COMMISSIONER COX: Two of the findings I agree with totally.  
42

43 CITY ATTORNEY WAGNER: Right.  
44

45 COMMISSIONER COX: The other two I'm questioning.  
46  
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48 VICE-CHAIR BAIR: But I mean I think that would be it kind of in just setting out  
49  
50 the basis if you want to say that.

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COMMISSIONER COX: Okay.

VICE-CHAIR BAIR: It's still a three-one. It's going to go up to them, they get to review the whole thing, and so you would just say hey I agree with this finding, this finding, and then they can move on. I mean this sense of allowing the property owner to kind of move ahead if they choose to do that, I think that would be the best thing to do. I mean that's just my opinion, but I have it easy because I'm the one.

CHAIR KELLER: One dissenter.

COMMISSIONER COX: Okay, so do you want to go first?

COMMISSIONER KEEGIN: Sure. I'd like to express one, a concern, and then two, a disagreement with one of the findings.

The concern is that there is evidence, but not a great deal of evidence, as to whether the establishment is indeed a formula retail. The key word it seems to me in that definition is that the operation be required by some third party, I assume, to conduct the business in a particular manner, and the evidence that was presented was in large measure about how in fact this particular applicant has come up with a number of individual, I wouldn't say necessarily unique, but certainly individual, elements to the operation that might take it out of being a formula retail, and I'm not sure that we've enough information on that particular issue. It was presented to us as a defined formula retail application, but we never actually made the analysis of what is required to be a formula retail operation. Now I happen to think that it probably would be found to be one, but I'm not sure about that. I voted no in large measure because I disapproved of and disagreed with the encroachment application, which seemed to me an integral part of the overall application.

Having said all of that, I specifically disagree with Finding 1A, which asks us to make a determination as to whether the application preserves a community's distinctive

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1 character and ambiance, and actually I happen to think that it might actually enhance it  
2  
3 in that particular building compared to the 7-Eleven and the laundry, the other two  
4  
5 tenants in that building.  
6

7 So I voted no, but with those reservations.  
8

9 COMMISSIONER COX: I also have a reservation as to Finding 1A. That being  
10 said, what was put in front of us was a formulaic sign and a formulaic banner. That was  
11 what was in our plans and specifications. Although the applicant indicated that and  
12 presented to us on the board a revised signage and indicated that the interior of the  
13 restaurant would be revised, because those plans were not in front of us we could not  
14 take them into account in voting on the proposal as presented to us. That being said, I  
15 agree with Mr. Keegin that I still am not certain that I can make the finding of 1A,  
16 because I'm not certain that the Subway restaurant in that location would create an  
17 obtrusive appearance which detracts from the distinctive character and ambiance of the  
18 community.  
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30 However I am in favor of the other three findings.  
31

32 CHAIR KELLER: Okay, I don't have any disagreements with the findings.  
33

34 VICE-CHAIR BAIR: I did have one comment. I just wanted to add a comment  
35 that I think Stafford pointed out. Kind of an interesting and I think a tough thing is  
36 typically an applicant has to prove by whatever the standard is, substantial evidence or  
37 whatever, his case. As to the issue about formula retail, we're putting him in the basket  
38 or in the place of having to prove that a particular place is not formula retail, and I don't  
39 know that we really have... I mean I think that's a tough thing, especially where we get  
40 into...and I think from both perspectives. Anyway, I don't want to extend the  
41 conversation on this from my point, because my vote is clear, but that was kind of  
42 another aspect of what my concerns were last time is that where normally one has a  
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1 positive case to put on, when the received knowledge is that you're a formula retail  
2 operation, then suddenly you're in a position of having to prove you're not, and I'm not  
3 sure how one does that in some of these kind of... Obviously if you're Wal-Mart of  
4 you're McDonald's, that's one thing. But I'm ready to vote.  
5  
6  
7  
8

9 CHAIR KELLER: Oh, I don't think we have to.

10 VICE-CHAIR BAIR: Our votes are recorded, so...

11 CHAIR KELLER: We're not taking a vote.

12 VICE-CHAIR BAIR: Yeah.

13 CHAIR KELLER: We're taking another vote? We already voted.

14 CITY ATTORNEY WAGNER: You voted to direct Staff to bring back a  
15 Resolution of Denial. Now you need to vote on the resolution.  
16  
17  
18

19 CHAIR KELLER: Okay, but the record will show a vote of three to one as  
20 opposed to four to one, and we know where Eric stands, so I think it should be reflected  
21 in the minutes that Commissioner Stout is not here this evening and he voted in favor of  
22 denial, and think that this will show three to one as opposed to four to one.  
23  
24  
25

26 CITY ATTORNEY WAGNER: Just to clarify, Mr. Chair, did you ask for public  
27 comment and there was none?  
28  
29

30 CHAIR KELLER: I haven't asked for public comment yet before we take the  
31 vote. I was asking if we had to take a vote.  
32  
33

34 CITY ATTORNEY WAGNER: You do.

35 CHAIR KELLER: Okay.

36 CITY ATTORNEY WAGNER: And you have to take public comment before you  
37 vote.  
38  
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40 CHAIR KELLER: Okay.  
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1 VICE-CHAIR BAIR: And just for clarification for future purposes, I'm getting the  
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3 idea here and I really will resist this in the future, that is we have to go through what can  
4  
5 tend to be challenging or painful in some respect public hearings on certain things, that  
6  
7 if we're going to direct it to come back for this sort of thing, although it doesn't look like  
8  
9 we have a lot of it here, we're potentially opening the door to hearing repetitive  
10  
11 testimony again on the same thing. I mean I'm going to consider that in the future and I  
12  
13 really want to have something on the record there with that.  
14

15 CITY ATTORNEY WAGNER: And I'd be happy to work with the Commission  
16  
17 and with Staff with that. There are definitely instances where if a matter has been  
18  
19 exhaustively heard and there is nothing new to be added, you don't have to listen to it  
20  
21 again. You've already done that.  
22

23 CHAIR KELLER: I have the latitude to close public comment whenever I desire,  
24  
25 correct?  
26

27 CITY ATTORNEY WAGNER: Well you have to take all the public comment  
28  
29 before you take an action.  
30

31 CHAIR KELLER: But if we're hearing the same thing over and over again I can  
32  
33 put people off, correct? I mean because I just think that why are we...  
34  
35

36 COMMISSIONER COX: We were not last week able to enunciate a specific  
37  
38 resolution, because we had not previously given to Staff sufficient direction. We could  
39  
40 have at the end of our discussion last week dictated to Staff a resolution and passed it  
41  
42 on the spot, so the way to prevent this in the future would be to undertake that task,  
43  
44 which I would not be (inaudible).  
45

46 CHAIR KELLER: I would hope that we can do that going forward.  
47

48 COMMISSIONER COX: Yes.  
49  
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1 CHAIR KELLER: Because this takes up a lot of additional time that I don't think  
2  
3 is necessary.  
4

5 COMMISSIONER COX: I mean something that is hotly contested. Again, I'm  
6  
7 Miss Process, I would invite people to exhaustively express their views so that everyone  
8  
9 is confident that they've been heard, we've considered their point of view and then  
10  
11 we've decided on balance.  
12

13 CHAIR KELLER: I would question how hotly contested this was. You'll have your  
14  
15 opportunity to be involved with some hotly contested items.  
16

17 VICE-CHAIR BAIR: Yeah, I would say for myself I always welcome it, but again,  
18  
19 I don't welcome the... I mean I think it becomes problematic when we're opening public  
20  
21 comment again when we don't have to, and so that's all I was pointing out.  
22

23 COMMISSIONER COX: So we know how we can prevent that in the future if we  
24  
25 want to.  
26

27 CHAIR KELLER: Yeah.

28 VICE-CHAIR BAIR: Yeah.

29  
30 COMMISSIONER COX: Okay, and to provide a little surety that this really  
31  
32 doesn't happen...  
33

34 VICE-CHAIR BAIR: I'm not pointing fingers. I'm just saying, you know, because  
35  
36 I'm relative new and everybody in this is an ongoing process with the new...  
37

38 COMMISSIONER COX: And this item was somewhat of an anomaly in the  
39  
40 sense that there were bigger policy issues related to this formula retail that Staff wasn't  
41  
42 very comfortable in coming with a recommendation either to approve or deny it. As  
43  
44 you've seen historically we usually come in with a recommended resolution, so just to  
45  
46 let you know, these are very rare instances.  
47  
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49  
50

1 CHAIR KELLER: Okay, with that said, is there anybody here in the audience this  
2  
3 evening who is here to talk on this issue?  
4

5 COMMISSIONER COX: Did you fill out a speaker card?  
6

7 CHAIR KELLER: It's Vicki Nichols.  
8

9 COMMISSIONER COX: I know.  
10

11 VICKI NICHOLS: (Does not use microphone. Volume is low.) Vicki Nichols, 172  
12  
13 Caledonia. I sat through the last hearing and I didn't (inaudible). And as you might  
14  
15 know, I sit through a lot of these things (inaudible) Planning Commission, and it was  
16  
17 specifically for things like formula retail will be Subway, McDonald's. (Inaudible) the  
18  
19 Shell station, that kind of thing. There was an instance with the gas station down on  
20  
21 Ridgeway. They had a formula way of painting and the deal breaker was they leave the  
22  
23 Planning Commission (inaudible) all white station because of the glare. So they worked  
24  
25 with the applicant and they were able to get a waiver that that color could be accepted,  
26  
27 so there are ways to do it, but the idea is really with this formula, when you look at every  
28  
29 place now that's a Subway, you see a Subway sign just like everybody else; that's  
30  
31 identifiable. So I'd just like to understand what the definition of... In my mind it's  
32  
33 (inaudible).  
34

35  
36 CHAIR KELLER: There is a definition.  
37

38 COMMISSIONER COX: And it was in our packet last week.  
39

40 CHAIR KELLER: It was in our packet and...  
41

42 VICKI NICHOLS: What is your interpretation?   
43

44 CHAIR KELLER: Well there's a difference between a definition, and you're  
45  
46 asking for an interpretation of the definition as opposed to a straight definition, which we  
47  
48 have, and now obviously it's in our purview to interpret how we see fit that definition,  
49  
50 and you have to in each one of these situations make all of the findings for one to

1 approve something like this, and if you find that one of the findings can't be met, then  
2  
3 you have to vote in favor of denial.  
4

5 VICKI NICHOLS: That's what I thought.  
6

7 CHAIR KELLER: Yeah.  
8

9 VICKI NICHOLS: I've never seen all the findings (inaudible). I just wasn't sure  
10  
11 (inaudible). Thank you.  
12

13 CHAIR KELLER: Thanks, Vicki. Anybody else would like to weigh in on this  
14  
15 before we close public comment and take a vote? No more public comment. We'll bring  
16  
17 it back up here and I will make a motion that we adopt a Resolution of Denial for a  
18  
19 Conditional Use Permit and Encroachment Agreement for 1907 Bridgeway, the  
20  
21 Subway.  
22

23 COMMUNITY DEV. DIR. GRAVES: As amended?  
24

25 CHAIR KELLER: As amended. Have a second?  
26

27 COMMISSIONER COX: Second.  
28

29 CHAIR KELLER: Do you want to take the role, Jeremy?  
30

31 COMMUNITY DEV. DIR. GRAVES: Commissioner Keegin?  
32

33 COMMISSIONER KEEGIN: Aye.  
34

35 COMMUNITY DEV. DIR. GRAVES: Commissioner Cox?  
36

37 COMMISSIONER COX: Aye.  
38

39 COMMUNITY DEV. DIR. GRAVES: Vice-Chair Bair?  
40

41 VICE-CHAIR BAIR: No.  
42

43 COMMUNITY DEV. DIR. GRAVES: Chair Keller?  
44

45 CHAIR KELLER: Aye.  
46

47 COMMUNITY DEV. DIR. GRAVES: Passes three-one.  
48

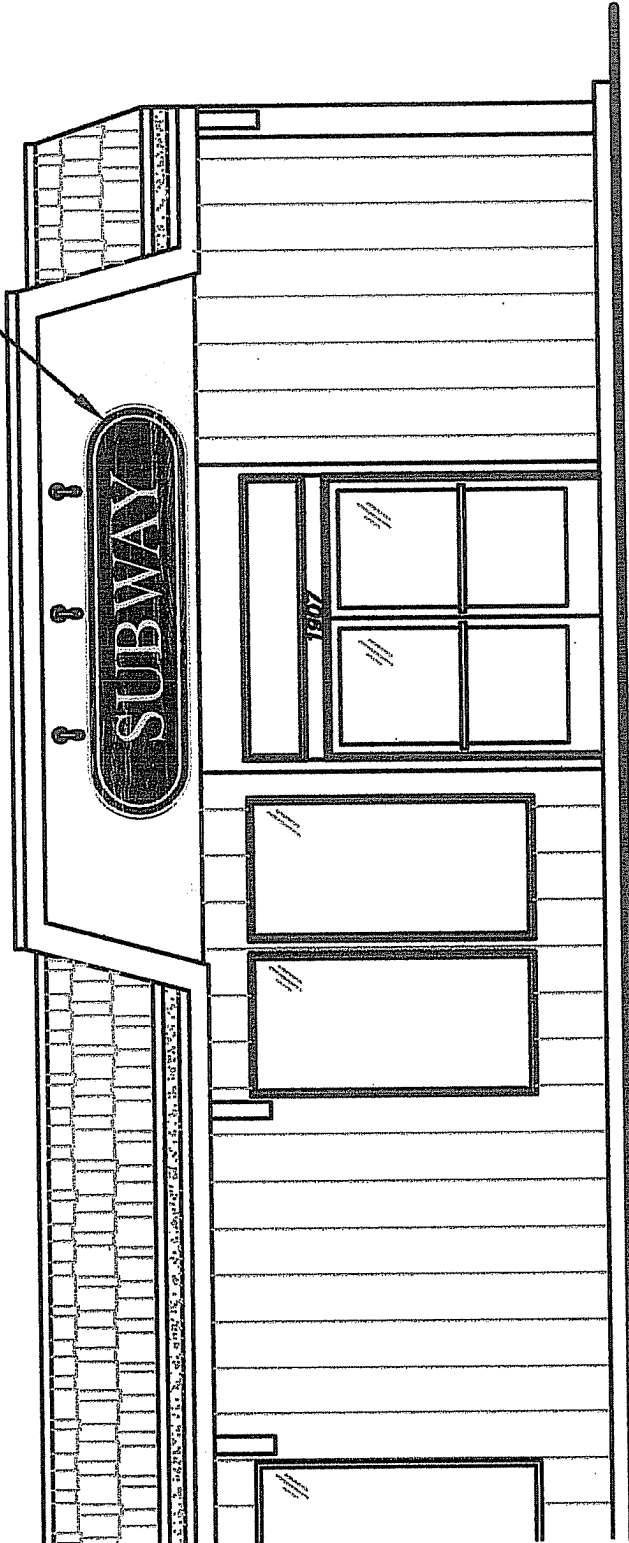
49 CHAIR KELLER: Thank you very much.  
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CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

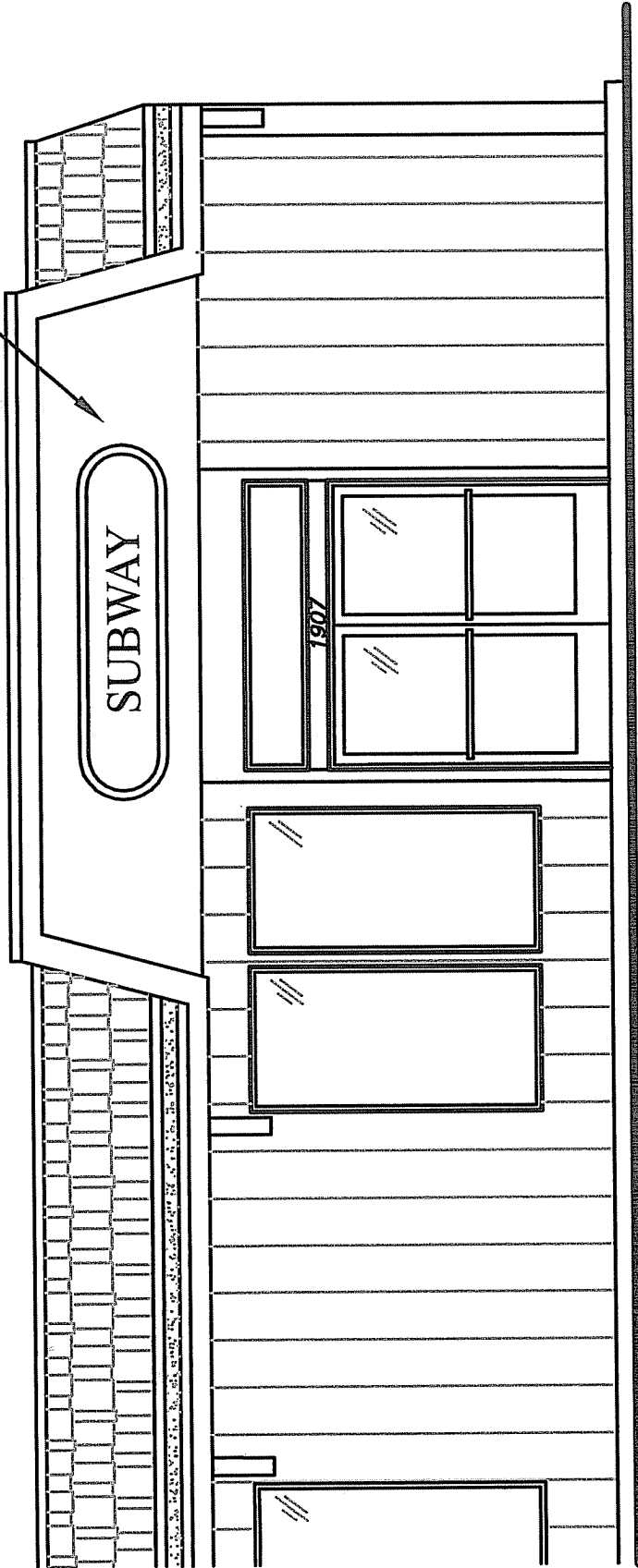
Redwood Sandblasted Sign-  
Board with 23 kt. Patent Gold  
Leaf Letters



**PROPOSED SIGN AT SUBWAY**

Attachment 6  
(2 pages) 5A  
109

Redwood Sandblasted Sign-  
Board with 23 kt. Patent Gold  
Leaf Letters

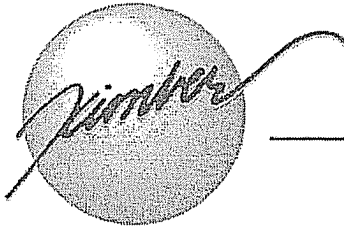


# PROPOSED SIGN AT SUBWAY

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RECEIVED

MAR 10 2009



CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT  
THE KIMBER COMPANIES

Kimber Management, LLC / Kimber Communications / Kimber Commercial Brokerage Services, Inc.

March 10, 2009

Ms. Heidi Burns, Associate Planner  
City of Sausalito  
420 Litho Street  
Sausalito, California 94965

Re: AP 07-008, Subway sandwich shop

Dear Ms. Burns:

Regarding the above mentioned appeal of the Planning Commission decision to deny a Conditional Use Permit for a Subway sandwich shop at 1907 Bridgeway, please accept this as our enthusiastic endorsement of granting the appeal and approving the use.

We have supported this use since the first notice of hearing was circulated approximately 1 year ago. Mr. Niles contacted me prior to his Planning Commission hearing earlier this year. After discussing the application with him, we circulated a petition to our tenants on Liberty Ship Way by email. Within 48 hours we had over 100 signatures in favor of this application from the business owners and employees directly across Bridgeway from the proposed location. This indicates to me a great deal of support in the commercial "neighborhood". The reason for this support is relatively simple. Subway is a shop that sells fresh, healthy food at a reasonable price. Since most of our tenants now drive to Marin City to patronize the Subway, the approval of this appeal would actually reduce vehicular traffic at the noon hour.

I believe Subway would be an asset to our area. The premises has been vacant for two years and although the City may have restrictions against the chain store image in its historical downtown, the Easterby location next to 7-11 is a retail strip center and the inclusion of Subway could not possibly have a negative effect on the image and character of Sausalito. Personally, I do not feel that the Shop will create a significant parking problem, since many of its patrons can walk to the location.

Thank you for including this in your packet. If you have any questions, please do not hesitate to contact me.

The Kimber Companies

Bruce O. Huff  
Email: bruce.huff@kimber.net

10 Liberty Ship Way, Suite 150, Sausalito, CA 94965  
tel. 415.331.6466 / 800.966.6466 / fax. 415.331.5524 / www.kimber.net

Attachment 7  
(1 page)  
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March 11, 2009

City Council  
City of Sausalito  
420 Lithro St.  
Sausalito, CA 94965

RECEIVED

MAR 11 2009

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

Re: 1907 Bridgeway Sausalito, Ca

Dear City Council Members,

The building in question has been owned by the same two partners since it was originally built. One owner lived in Sausalito for several years and the other owner has been a continuous resident of Sausalito for over 35 years, and as such is invested in maintaining its character.

In that regard the franchisee for our proposed Subway sandwich shop has agreed and is empowered to make changes that we feel comply with the required Formula Retail stipulations. The signage will be made of wood, will be externally lighted and the standard logo will not be used. In addition, the interior will have a distinctive appearance and add further to the desired uniqueness of Sausalito. The building is also very difficult to see from the street for both pedestrians and cars due to the shrubs planted along the strip adjacent to the street.

There is only one small Formula Retail store in the vicinity. We feel that a second small shop will not constitute an over-concentration of formula retail establishments in this section of the city, which is far removed from the historic downtown.

The question of parking was discussed in the planning staff report of June 11, 2008 and the staff suggested that "findings for recommended approval of the encroachment permit can be favorably made." Similar findings were also made in the staff report of Jan 14, 2009. After further analysis of the parking situation, we feel that limited parking time in the adjacent parking spaces could be an option as abundant long-term on-street parking is available contiguous to and across Bridgeway for public use.

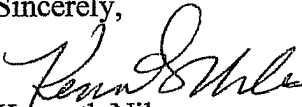
The space in question has been vacant for almost three years despite continued efforts to rent it. This has resulted in substantial tax loss to the city. In these difficult times with multiple store closings in Sausalito, we feel that this rental would be a constructive step in helping to maintain the local economy.

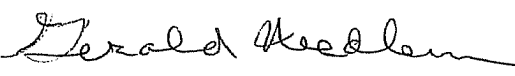
We have established that there would be ample usage of Subway both by local residents and employees from Marinship, many of whom would walk to the site. We also feel that its presence will enhance business in some of the other nearby establishments.

Subway offers nutritious and reasonably priced meals and would be a positive addition to the community.

Thank you for your consideration.

Sincerely,

  
Kenneth Niles

  
Gerald Needleman

Attachment 8  
(22 pages) SA  
113



## Heidi Burns

---

**From:** carrin greenfield [carrin18@sbcglobal.net]  
**Sent:** Tuesday, January 27, 2009 10:15 AM  
**To:** Heidi Burns  
**Subject:** Subway

A group of us are very upset that you have denied the Subway restaurant. This would be the only affordable, healthy restaurant in the City. I know that we should support local business which I do but, there is no place that you can go and get just a sandwich and a soda where you have not been charged an arm and a leg. I think that in these times Sausalito would like to get the revenue from the Subway instead of getting nothing. Have you noticed how full all the restaurants are these days ??? Well figure it out, no one can afford to pay \$12.00 for a sandwich. Try taking a poll of how many people in Sausalito would love to have a nice, clean place to get something affordable.

Carrin Greenfield  
Sausalito Resident

I have been informed that "Subway" Sandwich Shop would like to locate at 1907 Bridgeway.

I think it would be an asset to the community and our neighborhood and I am in favor of supporting it.

Name

Carmie Krowe

Address

417 Wagon St  
Sausalito, CA 94965

5A  
115

I have been informed that "Subway" Sandwich Shop would like to locate at 1907 Bridgeway.

I think it would be an asset to the community and our neighborhood and I am in favor of supporting it.

Name

Kae Hahn

Address

11 Terres Dr. #12  
Sausalito CA 94965

I have been informed that "Subway" Sandwich Shop would like to locate at 1907 Bridgeway.

I think it would be an asset to the community and our neighborhood and I am in favor of supporting it.

Name

Jerry Wolff

Address

1001 Bridgeway  
Sausalito, Ca

5A  
117

I have been informed that "Subway" Sandwich Shop would like to locate at 1907  
Bridgeway.

I think it would be an asset to the community and our neighborhood and I am in  
favor of supporting it.

Name

Patrick Haynes

Address

148 Filbert Ave #1  
Sausalito, CA 94965

5A  
118

I have been informed that "Subway" Sandwich Shop would like to locate at 1907  
Bridgeway.

I think it would be an asset to the community and our neighborhood and I am in  
favor of supporting it.

Name

Ed Pollard

Address

120 Stanford Way  
Sausalito 94965

5A  
119

I have been informed that "Subway" Sandwich Shop would like to locate at 1907  
Bridgeway.

I think it would be an asset to the community and our neighborhood and I am in  
favor of supporting it.

Name

Michael Lynn

Address

146 Filbert Ave Apt 2  
Sausalito CA 94965

I have been informed that "Subway" Sandwich Shop would like to locate at 1907 Bridgeway.

I think it would be an asset to the community and our neighborhood and I am in favor of supporting it.

Name

BEN MONK

Address

121 STANFORD WAY

SAUSALITO, CA 94965

5A  
121



I have been informed that "Subway" Sandwich Shop would like to locate at 1907 Bridgeway.

I think it would be an asset to the community and our neighborhood and I am in favor of supporting it.

Name

Mike Levermer

Address

14 B Marie  
Sausalito

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102

10/20

Dear Planning Commission,

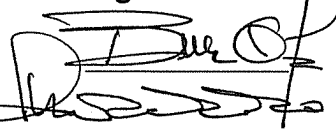

We would like you to vote in favor of allowing Subway to locate in the vacancy at 1907 Bridgeway. We are located nearby and believe Subway would be an asset to our neighborhood as it offers a healthy alternative plus the convenience of a very reasonably priced meal.

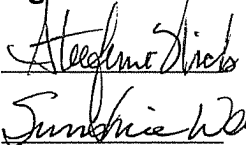
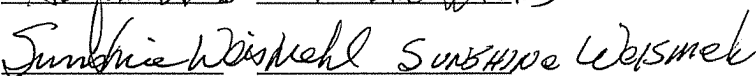
The space has been vacant for two years and although the City may have restrictions against the chain store image in its historical downtown, the Easterby location is not applicable and could not possibly have a negative effect on the image and character of Sausalito.

Respectfully,

Signature - Print Name

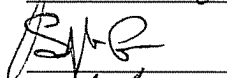
Signature - Print Name

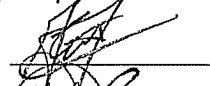
 Bruce Hoff  
 Orlando Lobo


 Stephanie Wicks  
 Sunshine Weismel

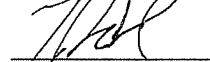
 Pam Kliffle


 Y. Finstad

 Sylvia Faucher

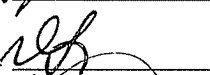
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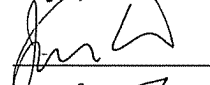
 Debrah Jacy

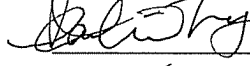
 Matthew Poole

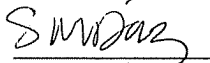
 F. Clark Warden

 Feinmann

 Lavinia Loma

 Jessica Kelling

 Caroline Teng

 Susanna Diaz

 Terri Abelar

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B

Dear Planning Commission,


We would like you to vote in favor of allowing Subway to locate in the vacancy at 1907 Bridgeway. We are located nearby and believe Subway would be an asset to our neighborhood as it offers a healthy alternative plus the convenience of a very reasonably priced meal.

The space has been vacant for two years and although the City may have restrictions against the chain store image in its historical downtown, the Easterby location is not applicable and could not possibly have a negative effect on the image and character of Sausalito.

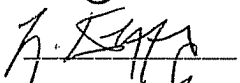
Respectfully,


Signature - Print Name

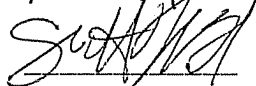
Signature - Print Name

 Amy Clauson

 Clayton Lee

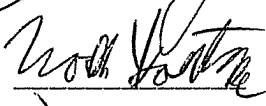
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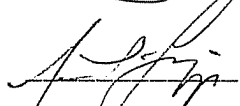
 Adam Chirchito

 Scott McFadden

 Cardine Lewis

 MICHAEL Gibbons

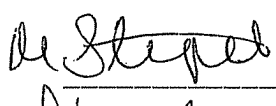
 Noah Horton

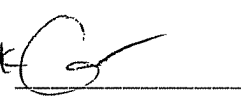
 J.P. Giuzeppe

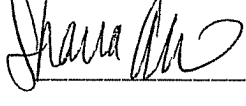
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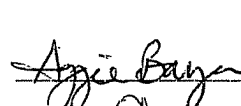
 Simone Buchwalter

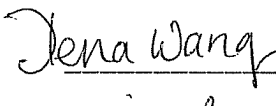
 Danny Chan

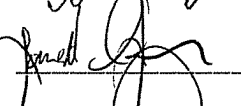
 Mary Strupack

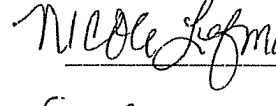
 Carrie Ammerman


 Shana Allen

 AGGIE BAYER

 Dena Wang

 Garrett Delorm

 Nicole Lefmann

 Ivy Calhoun

 CAROL ZAHORAK Carley Ridgway Carley Ridgway



very reasonably priced meal.

The space has been vacant for two years and although the City may have restrictions against the chain store image in its historical downtown, the Easterby location is not applicable and could not possibly have a negative effect on the image and character of Sausalito.

Respectfully,

**Signature – Print Name**

**Signature – Print Name**

<u>Kim Vogel</u>	<u>[Handwritten Signature]</u>	_____	_____
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Dear Planning Commission,

We would like you to vote in favor of allowing Subway to locate in the vacancy at 1907 Bridgeway. We are located nearby and believe Subway would be an asset to our neighborhood as it offers a healthy alternative plus the convenience of a very reasonably priced meal.

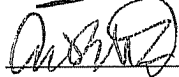
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Respectfully,

Signature – Print Name



VINCE VALDES



ANDREW WERNICK

Signature – Print Name

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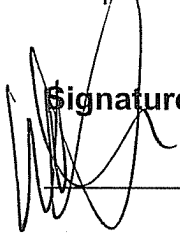
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Respectfully,

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Signature – Print Name  
M. KOSKIE \_\_\_\_\_

 \_\_\_\_\_  
K. Koskie \_\_\_\_\_

Signature – Print Name  
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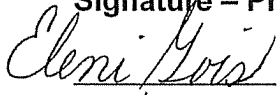
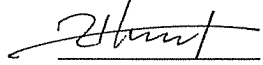
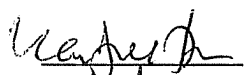
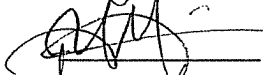
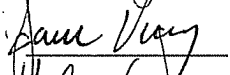
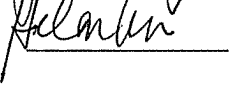
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128

Dear Planning Commission,

We would like you to vote in favor of allowing Subway to locate in the vacancy at 1907 Bridgeway. We are located nearby and believe Subway would be an asset to our neighborhood as it offers a healthy alternative plus the convenience of a very reasonably priced meal.

The space has been vacant for two years and although the City may have restrictions against the chain store image in its historical downtown, the Easterby location is not applicable and could not possibly have a negative effect on the image and character of Sausalito.

Respectfully,

Signature – Print Name		Signature – Print Name	
	<u>Eleni Gois</u>	_____	_____
	<u>EVA HALBERT</u>	_____	_____
	<u>DAN TRAN</u>	_____	_____
	<u>Robert Ghiorzi</u>	_____	_____
	<u>Jack Viray</u>	_____	_____
	<u>Helene Bomare</u>	_____	_____
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Respectfully,

Signature – Print Name

Signature – Print Name

Anne Mueller

\_\_\_\_\_

Chris Bastardo

\_\_\_\_\_

Jon Squire

\_\_\_\_\_

Michael Jeffrey

\_\_\_\_\_

Louis Lucq

\_\_\_\_\_

DOMINIC MAGAR

\_\_\_\_\_

Diane Hugg

\_\_\_\_\_

David Fanele

\_\_\_\_\_

Ben Xu

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DANIEL DET

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2090

Dear Planning Commission,

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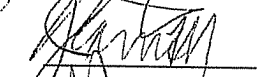
Respectfully,


Signature - Print Name

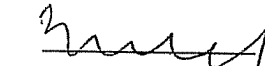
Signature - Print Name

 Christian Lasando

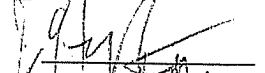
 Michael Johnson

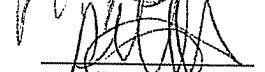
 Jeanne Mariani

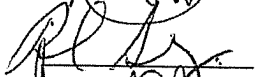
 Aimee Bullington

 Mat Small

 Bernadette Balla

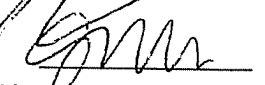
 JAMES HAMPTON

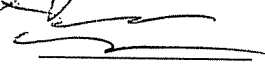
 Amir Salehi

 Reuben Skisger

 Brett Oborski

 Blair Erickson

 Georgia Thunes

 Thomas Corley

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Myrusk Anjanakacker

Sarah Brewer

Sarah Jerbic Sarah Jerbic

Lisa Downan

MARK ROSE

KPIATANESI Kelly Piatanesi

Heather RISSER

MATT BERNSTEIN

Stephen Mapp

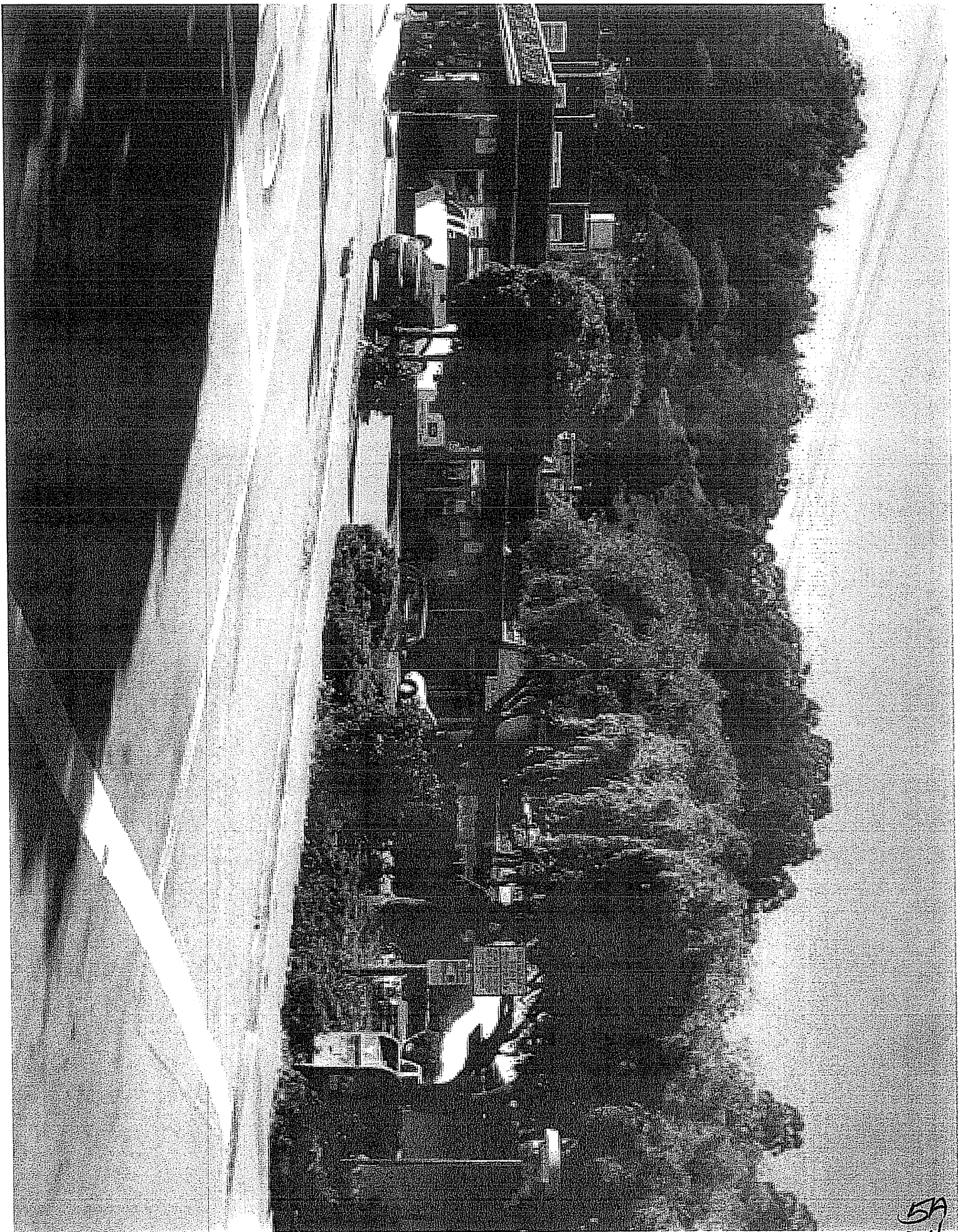
Lynda Richardson

Joshua Brewer

Lily Goidschmidt

JESSIE WILKINSON

Leroy Clark



5A  
134

Now is not the time to introduce a 'formula retail restaurant' into our community.

Thank you for your consideration.

-----  
May 20, 2008

RECEIVED

MAR 18 2009

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

To: Sausalito Planning Commission

From: Sonja Hanson, 524 Spring Street, Sausalito

Re: Proposed Subway at 1907 Bridgeway (APN 064-141-05)

I have concerns about introducing fast food restaurants into Sausalito, including:

1) We are a town with many small family own and operated restaurants and delis. These small establishments cannot compete on a cost basis with a 'formula retail restaurant'. Do we want to drive these small family businesses out of town by introducing chain restaurants?

2) We have several areas in town that could be described as 'strip malls'. To date, however, none of them has a fast food restaurant. That seems to me to be a positive aspect of Sausalito; these areas provide services to the community without homogenizing our town so it becomes like every other town.

I have heard that part of the debate about giving a conditional use permit for this project is showing that it would provide a unique service. I am not sure what that unique service would be, except possibly extended hours of operation. If someone is in need of a sandwich in the middle of the night, there is always the 7-11 that exist next door. I suspect it got a conditional use permit based on hours of operation, one of those in the neighborhood is enough.

Attachment 9  
(3 pages) SA  
135

RECEIVED

MAR 16 2009

Heidi Burns

**From:** sonja hanson [sonyahanson@hotmail.com]  
**Sent:** Tuesday, March 17, 2009 3:01 PM  
**To:** jonathon leon; Mike Kelly; Amy Belser internet mail; Herb Weiner; Linda Pfeifer  
**Cc:** sonyahanson@hotmail.com; Adam Politzer; Mary Wagner; Heidi Burns  
**Subject:** RE: Appeal to CC on PC decision on Subway proposed on Bridgeway at Easterby  
**Attachments:** fr1.jpg; fr2.jpg

To: Sausalito City Council  
 From: Sonja Hanson  
 Re: Proposed Subway at 1907 Bridgeway

I am writing to ask that at the March 24th City Council meeting, you uphold the decisions made by the Planning Commission on February 28th to deny a conditional use permit for a 'formula retail' establishment, and to deny an encroachment permit for the use of 8 of our public parking spaces.

Section 10.44.240 of the Sausalito Zoning Ordinance clearly addresses the issue of concentration of 'formula retail' establishments in any one area in town. The Planning Commission determined that two 'formula retail' establishments in the same building (the existing 7-11, and the proposed Subway) constitutes a clear example of what Section 10.44.240 is attempting to avoid, an over concentration of 'formula retail' establishments in any one location.

My understanding is that the appellant will be challenging the contents (and intent) of Section 10.44.240 in an attempt to remove the community protection clause that prevents locating a Subway two doors up from the 7-11. My sincere hope is that the City Council defends and protects Section 10.44.240. This section was approved by an earlier City Council as a means regulating 'formula retail' establishments in Sausalito and of protecting community interests.

Below are two earlier e-mails to the Planning Commission that include additional concerns about the proposed Subway. I've also attached Section 10.44.240. The intent of this Section is very clear; I sincerely doubt that the sentiment in this town regarding regulating 'formula retail' has changed much since this Section was approved by the City Council in 2003.

With respect,

Sonja Hanson  
 524 Spring Street  
 Sausalito

-----

January 4, 2009

To: Sausalito Planning Commission  
 From: Sonja Hanson, 524 Spring Street, Sausalito  
 Re: Proposed Subway at 1907 Bridgeway (APN 064-141-05)

Please find attached the letter that I sent to you last May regarding this project. Nothing has changed, except the economy as we knew it is gone. This means the small family owned businesses in our town that provide deli service are even more vulnerable than they were before.

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136

RECEIVED

MAR 18 2009

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

10.44.240

Formula Retail

Purpose. The purpose of the standards in this Section regulate the location and operation of formula retail establishments in order to maintain the City's unique village character, the diversity and economic vitality of the community's commercial districts, and the quality of life of Sausalito residents. The City has determined that preserving unique architecture, signage, graphic and other design elements so that the City maintains a distinctive visual appearance and small-scale eclectic ambiance will promote the long-term viability of the community's businesses districts. The City has also determined that preserving a balanced mix of local, regional, and national-based businesses and small and medium sized businesses will maintain and promote the long-term economic health of visitor-serving businesses and the community as a whole. It is therefore the intention of the City that an over-concentration of formula retail businesses not be allowed, that all permitted formula retail establishments shall create a unique visual appearance that reflect and/or complement the distinctive and unique historical character of Sausalito, and that no such establishment shall project a visual appearance that is homogenous with its establishments in other communities.

City of Sausalito Zoning Ordinance  
10.44 Specific Use Requirements

July 15, 2003  
Page 10.44 - 30

5721



Heidi Burns

RECEIVED

**From:** Sandra List [sandymhs@MINDSPRING.COM]  
**Sent:** Wednesday, March 18, 2009 10:12 AM  
**To:** Heidi Burns  
**Subject:** subway application denial

MAR 18 2009

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

RE: Subway Use Permit Denial

Dear Ms. Burns: I completely support the Planning Commission's denial of a conditional use permit for Subway's efforts to put in a restaurant at 1097 Bridgeway. My reason is because the location is not appropriate for a high traffic venue.

I live several blocks away at 20 B Marie St. and use the Easterby/Bridgeway/Filbert/Marie streets intersection at least once day, often more than once - as a pedestrian [with my dog] and as a driver. There are so many times that crossing any combination of those streets is an exercise in "Survivor" because of the existing traffic from the merchants currently at that little center, and from the office buildings at Marinship. Filbert St. is also a big through-street in town for people going uphill to residences and/or to the freeway.

The lack of signage and reasonable traffic signals for anyone trying to figure out what to do about turning left, right or going straight is a horrible situation. Vehicles run that traffic light in all directions all the time. Drivers going straight across Bridgeway have to yield to the turners because vehicles turning onto Bridgeway don't stop and yield.

Any increase in traffic from a Subway venue would make the currently dangerous situation beyond intolerable. There is no way that additional parking could be accommodated at that busy location.

All of this said above, I sincerely regret that Subway does not fit in this location as I appreciate the need for a low cost, reasonably good, fresh, hot and cold fast food establishment in this town. I have eaten at Subways before and the food is okay, and often with healthy alternatives. This is a tough situation for all. The location is a good one where there is really nothing available of similar value anywhere close. There are a lot of laborers, office workers and others in this town who would appreciate a lower food cost alternative than Sausalito's restaurants offer - so I suspect many go out of this town to eat (to Marin City, Strawberry) and we lose the revenue as a result. That doesn't help anybody.

---

Sandy List  
20 B Marie St.  
Sausalito, CA.

A Attachment 10A  
(1 page) 139

RECEIVED

MAR 18 2009

Heidi Burns

**From:** Amy Novesky [amy@pinkmoonstudio.net]  
**Sent:** Wednesday, March 18, 2009 12:39 PM  
**To:** sonja hanson  
**Cc:** jonathon leon; Mike Kelly; Amy Belser internet mail; Herb Weinger; Linda Pater; Adam Politzer; Mary Wagner; Heidi Burns  
**Subject:** Re: Appeal to CC on PC decision on Subway proposed on Bridgeway at Easterby

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

Dear Sausalito City Council,

We second Sonja Hanson's comments wholeheartedly and feel strongly that the wording of Section 10.44.240 says it all. We support maintaining the uniqueness, diversity, economic vitality and quality of life of our city. The proposed Subway next to the existing 711, and the attempt the reverse this Section, goes against these values.

Thank you for your time and consideration.

Sincerely,

Amy Novesky  
ND Koster  
534 Spring Street

On Mar 17, 2009, at 3:01 PM, sonja hanson wrote:

**To:** Sausalito City Council  
**From:** Sonja Hanson  
**Re:** Proposed Subway at 1907 Bridgeway

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With respect,

Sonja Hanson  
524 Spring Street

Attachment 11  
(1 page) 5A  
141