



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE: Subway Restaurant Resolution of Denial.

RECOMMENDED MOTION:

Adopt the attached resolution denying Conditional Use Permit and Encroachment Agreement CUP/EA 07-008 for a Formula Retail Subway Restaurant at 1907 Bridgeway.

BACKGROUND AND DISCUSSION

On March 24, 2009, the City Council directed staff to prepare a resolution denying the appeal of the Planning Commission's denial of conditional use permit and encroachment agreement CUP/EA 07-008 for the proposed Subway Restaurant Formula Retail establishment at 1907 Bridgeway.

The attached resolution has been prepared for the City Council's consideration and approval.

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

Adopt the attached resolution denying CUP/EA 07-008 for a Subway Restaurant Formula Retail establishment at 1907 Bridgeway.

ATTACHMENT: Draft Resolution

PREPARED BY:

Heidi Burns, AICP
Associate Planner

REVIEWED BY:

Jeremy Graves, AICP
Community Development Director

REVIEWED BY:

Mary Wagner
City Attorney

SUBMITTED BY:

Adam W. Politzer
City Manager

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Item: 438
Meeting Date: 4-21-09
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RESOLUTION NO. XXX

**A RESOLUTION OF THE SAUSALITO CITY COUNCIL DENYING AN APPEAL OF
THE PLANNING COMMISSION'S DENIAL OF A CONDITIONAL USE PERMIT TO
ALLOW SUBWAY RESTAURANT, A FORMULA RETAIL ESTABLISHMENT,
AT 1907 BRIDGEWAY
(CUP/EA 07-008)**

WHEREAS, on November 17, 2007, applicant Chirayu Patel filed an application for a conditional use permit and an encroachment permit to allow a formula retail establishment for a Subway restaurant within an existing commercial building at 1907 Bridgeway (APN 064-141-05); and

WHEREAS, on June 11, 2008, January 14, 2009, and January 28, 2009, the Planning Commission conducted duly-noticed public hearings, considered the information contained in the respective staff reports, and considered testimony by all interested persons regarding the proposed project; and

WHEREAS, on January 28, 2009, the Planning Commission adopted Resolution No. 2009-06 which denied CUP/EA 07-008 to allow a formula retail establishment within the commercial building at the project site; and

WHEREAS, on February 9, 2009, project site property owner Kenneth Niles filed a timely appeal of the Planning Commission's denial of CUP/EA 07-008; and

WHEREAS, on March 24, 2009 the City Council conducted a duly-noticed public hearing on the appeal, considered oral and written testimony, and considered information in the staff report; and

NOW, THEREFORE, THE CITY COUNCIL HEREBY FINDS AND RESOLVES AS FOLLOWS:

SECTION 1. The City Council hereby denies the appeal, upholds the decision of the Planning Commission to deny CUP/EA 07-008 to allow Subway Restaurant, a Formula Retail establishment, at 1907 Bridgeway, and affirms, incorporates, and expands upon the findings listed in Planning Commission Resolution No. 2009-07 as provided herein as Attachment 1.

RESOLUTION PASSED AND ADOPTED at the regular meeting of the City of Sausalito City Council on the ----- day of -----, 2009, by the following vote:

AYES: Councilmember:
NOES: Councilmember:
ABSENT: Councilmember:
ABSTAIN: Councilmember:

Jonathan Leone, Mayor
City of Sausalito

ATTEST:

Debbie Pagliaro
Deputy City Clerk

Attachment: Findings

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CITY COUNCIL RESOLUTION

April 21, 2009

CUP/EA 07-008

1907 BRIDGEWAY

ATTACHMENT 1

FINDINGS

I. FORMULA RETAIL FINDINGS

The proposed project is **not** in conformity with the Formula Retail Findings required by Zoning Ordinance Subsections 10.44.240.D.1, 2, 4, 5, and 7.

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) Zoning 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 establishment located at 1901 Bridgeway, the same building in which the Subway Restaurant is proposed. 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.

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 establishments 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.

4. "The Formula Retail establishment will contribute to an appropriate balance of local, regional or national-based businesses in the community."

As discussed in Finding 2 above, the Subway Restaurant Formula Retail establishment will create an over-concentration of national-based businesses within the immediate vicinity and off-set the balance of local and regional businesses within the CN District.

5. "The Formula Retail establishment will be mutually beneficial to and would enhance the economic health of surrounding uses in the district."

As discussed in Findings 2 and 4 above, the over-concentration of Formula Retail establishments within the immediate vicinity of the project site will be detrimental to the economic health of the local businesses due to a redundancy of local and existing Formula Retail restaurant and food service uses within the CN District.

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

The proposed project is **not** in conformity with the required Encroachment Agreement Findings required by Zoning Ordinance Section 10.56.060.B.

- A) "The encroachment will not adversely affect the usability or enjoyment of adjoining parcels nor create or extend an undesirable land use precedent."

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.*