

PLANNING COMMISSION MINUTES OF FEBRUARY 14, 2011

2011-7015: Des Nolan & Liam Balfe [Applicant] **Cheswycke LLC** [Owner] - Special Development Permit to allow a new bar & nightclub at **182 S. Murphy Avenue.** – RK

Ryan Kuchenig, Associate Planner, presented the staff report. He said staff recommends the Planning Commission approve the Special Development Permit subject to the attached conditions.

Comm. Sulser discussed with staff the scope of the Planning Commission's decision this evening with staff explaining that the Commission would be considering the use of the interior of the building for the bar and the night club. **Trudi Ryan**, Planning Officer, said that the architecture and all of the exterior appearance of the building was the purview of the Heritage Preservation Commission.

Vice Chair Hendricks asked staff to clarify the parking situation for this site. Staff explained that there is an hierarchy of parking regulations in the Downtown, and that this site is in Block 2, which supersedes any other parking regulations for this site, and the applicant is not required to provide their own parking. Vice Chair Hendricks discussed the parking with staff including, the Parking District, a parking analysis provided by the applicant, public and private parking spaces, peak parking time, and considerations for future development. Vice Chair Hendricks asked staff about a study issue proposed at the January Study Issue Work Shop regarding Downtown parking with staff saying Council deferred the issue to next year. Vice Chair Hendricks discussed with staff changes in the building including the redesign of the back and height of the building, and that the proposed rear elevation is different than what is currently there.

Comm. Chang discussed with staff the location and use of the elevator. Comm. Chang confirmed with staff that the bathroom is on the second floor and that the stairway would be available for patrons. Staff said the elevator would also be accessible.

Comm. Hungerford referred to the finding that encourages mixed use in the Downtown area and said there are a lot of bars on Murphy Avenue. Ms. Ryan said this is a tough issue, however this is an entertainment area. Comm. Hungerford confirmed with staff that if a bar is operating under all the requirements that there is no time limit on the use. Comm. Hungerford asked staff about the rooftop garden and whether there would be music. Staff said yes and there are conditions to help control noise issues. Comm. Hungerford referred to several references in the report regarding "under 21 patrons" with staff confirming that no one under 21 years of age is allowed at any time and that the language could be corrected in the conditions.

Comm. Larsson asked about conditions AT-8 and AT-9 with staff confirming that the rooftop garden would have sound proofing materials; however, it is open to the sky and there would be some sound leakage out of the top.

Chair Travis opened the public hearing.

Des Nolan, applicant and one of the property owners, said they are proposing to construct and operate this nightclub in downtown Sunnyvale and feel the project would comply with the intent of the General Plan for this area. He said the new building would be two stories high and adjacent to Gumba's. He said the basement would be used for office and storage, the first floor would be a bar and dancing, and the second floor would be the bathrooms, open patio and a bar. Mr. Nolan discussed the design and said the Heritage Preservation Commission unanimously approved the plans. He said a security plan would be submitted. He said they are a stand-alone club catering to 21 and over patrons. He said they currently operate Fibber McGee's in Sunnyvale and Molly McGee's in Mountain View. Mr. Nolan said the peak hours for parking in the downtown are 7 p.m. and lunchtime. He said the premium operating times for the proposed site would be Thursday, Friday and Saturday around 9 p.m. He said they would not be serving a full lunch and would not impact lunch parking. He said he estimates 20 full-time employees and 16 part-time employees. He said they have operated on Murphy Avenue for 17 years and are happy to be part of the downtown area. Mr. Nolan asked the Commission to approve their project.

Arthur Schwartz, a Sunnyvale resident, said he thinks this night club would be a good addition as there is not much dancing in downtown Sunnyvale. He said he is concerned about noise and asked the architect and developer to take the low frequency noise into consideration. He said he thinks this is a good project.

Mr. Nolan said they would be working closely with public safety to mitigate any problems that may arise including noise.

Vice Chair Hendricks discussed with Mr. Nolan the entrances and exits, the ticket booth, a smoking location, the roof and partial cover of the second floor, and the paving surface of the second floor. Vice Chair Hendricks discussed with Mr. Nolan the demolition and construction work including amount of time and parking impacts. Ms. Ryan said that the demolition and construction would need to be controlled, and the applicant would need to have a construction management plan, however this is not part of the Use Permit. Ms. Ryan said the Landmark Alteration Permit (LAP) also has conditions that must be complied with.

Comm. Larsson asked how close the nearest residences are to the site. Staff referred to page 2 of staff report and explained where residences are located. Comm. Larsson

discussed with staff options available if evening noise became an issue. Ms. Ryan said a performance condition could be added and that they would not be able to exceed noise requirements.

Chair Travis closed the public hearing

Comm. Chang moved for Alternative 1, to approve the Special Development Permit with attached conditions. He said he would like to have the language in condition AT-3 changed so it is clear that no one under the age of 21 is allowed at any time.

Comm. Chang had staff explain the noise standards. Comm. Chang confirmed with staff that this site is not near residential. Comm. Sulser seconded the motion.

Comm. Chang said he welcomes the new development and that this business will enhance the Downtown. He said he thinks this is a great design, and good implementation and use of the space.

Comm. Sulser said he was able to make findings and that the parking would not be a nuisance on the parking district. He said this is the small lot redevelopment that the City needs to get the downtown going again.

Vice Chair Hendricks offered a Friendly Amendment to also change condition AT-1 so it is clear that no one under the age of 21 is allowed at any time. The Friendly Amendment was acceptable to the maker and the seconder of the motion. Vice Chair Hendricks said he would be supporting the motion as he can make the findings. He said he is concerned about how many bars should be allowed in the Downtown. He said if this is an entertainment district that he thinks another bar is acceptable. He encouraged the applicant to keep the construction impact to a minimum.

Comm. Hungerford said he would be supporting the motion partly as he is familiar with the other two bars that the applicant owns which are well run. He said he is concerned about the number of bars on Murphy Avenue, and cautioned staff that we need a mix of uses along Murphy Avenue.

ACTION: Comm. Chang made a motion on 2010-7015 to approve the Special Development Permit with modified conditions: to modify condition AT-1 and AT-3 clarifying that no one under the age of 21 is allowed in the bar. Comm. Sulser seconded. Motion carried 7-0.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than March 1, 2011.