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MEMORANDUM

Planning and Development – CC Memo No. 07-075

DATE: MARCH 22, 2007

TO: MAYOR AND CITY COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
DOUG BALLARD, PLANNING & DEVELOPMENT DIRECTOR
JEFF KURTZ, ASSISTANT PLANNING & DEVELOPMENT DIRECTOR

FROM: HANK PLUSTER, INTERIM LONG RANGE PLANNING MANAGER

SUBJECT: **ZCA07-0001 EXTENSION OF LIQUOR PREMISES IN CCD**
Introduction and Tentative Adoption of Ordinance No. 3905
Introduction and Tentative Adoption of Ordinance No. 3908

Request: Amend City Code Sections 35-3203/D (Zoning Code, City Center District), 46-4.2/A and 46-4.2/B (Encroachment Permits for Sidewalk Furniture) to allow liquor uses in CCD to extend their serving premises into the adjoining sidewalk right-of-way

Applicant: City of Chandler (City Initiative)

RECOMMENDATION

Upon finding consistency with the Chandler General Plan and the stated purpose of the City Center District (CCD), Planning Commission and Staff recommend amending the various sections of City Code as noted above, allowing liquor uses in CCD to extend their serving premises into the adjoining sidewalk right-of-way (Exhibit “A”, draft text attached).

BACKGROUND

The City Center zoning district (CCD) was written and adopted in 2000 to best accommodate uses and development standards unique to a downtown setting, based upon considerations of limited lot sizes/widths, zero building setbacks, parking availability, existing sidewalk colonnades, etc., within downtown Chandler (Exhibit “B”, map attached). Since that time, a variety of new commercial uses have opened for business on the downtown square, including some restaurants and other retail uses, all of which are consistent with the intent of the CCD to feature specialty commercial, cultural, dining,

entertainment, and other storefront uses. With an encroachment permit, existing restaurants are already enabled to put tables and chairs out on the sidewalk for food service, and staff anticipates that other existing as well as prospective restaurant and liquor uses will want the opportunity to extend their liquor premises. However, current code expressly prohibits liquor sales in the right-of-way citywide.

DISCUSSION

As true for all other city zoning districts, liquor sales and service in the CCD are subject to Use Permit approval by Planning Commission and City Council. Since the desire to extend one's liquor premises onto the sidewalk right-of-way would originate from the business inside the adjoining building on private property, staff found logic in making the extension of premises subject to Use Permit approval as well. It triggers public notice to adjoining property owners and businesses with a forum to express concerns or support, it provides the customary means of addressing compatibility issues by specifying certain conditions, and it gives the City a formal mechanism through Mayor and Council to authorize a commercial activity in the public right-of-way. The requirement for the applicant to subsequently seek a Class 2 encroachment permit is essentially a follow-up action by staff, i.e., to address the required details of indemnifying the City and posting the proper insurance, approving/inspecting the method of attaching fencing on the sidewalk, restoring the sidewalk to its previous condition when the use ceases, etc.

In addition to City approvals, all liquor uses are subject to licensure by State Liquor Control, who in turn requires some sort of "permanent" barrier enclosure to formally identify and separate the outdoor serving area. To meet this requirement of the State while at the same time insuring some degree of visual uniformity along the downtown square, a forty-two inch (42") high wrought iron fence enclosure would be required for the outdoor serving area, with self-latching and self-closing gates provided as necessary. Further, a minimum six ft. (6') unobstructed sidewalk width must be maintained at all times, measured from the fence enclosure to the inside face of the nearest column, street light, utility box or other fixture [in cases where the right-of-way is being reconstructed or modified by City approval, that minimum clearance may be reduced to five ft. (5')].

With respect to the existing colonnade along San Marcos Place, Buffalo and Boston Streets, the sidewalk widths vary from eleven feet (11') to thirteen feet six inches (13'-6"). In most cases, the greatest depth of sidewalk that might be enclosed for an extension of liquor premises—after maintaining the six ft. (6') sidewalk clearance—would be seven and a half feet (7 ½'). However, somewhat greater depths might be proposed for building fronts that do not currently adjoin the colonnade but are still within the CCD zoning district. For any particular case, the enclosed serving area could extend for all or only a portion of the adjoining building front.

As drafted, the proposed code amendment identifies only the basic standards and requirements for extending liquor premises in the CCD. Each case may present details and circumstances that are relatively unique, such as colors, materials, lighting, music, hours of operation outdoors, etc., all of which can best be addressed on a case-by-case basis through the Use Permit process.

Making provisions for extending liquor premises in the CCD necessitates amending other sections of the City Code as well, i.e., Section 46-4 pertaining to issuing encroachment permits for sidewalk furniture. Hence the attached draft also includes modified language for the other applicable sections of City Code, in addition to the Zoning Code.

PUBLIC NOTICE/INPUT

Prior to posting the legal ad (1/8th page display ad presenting the draft text), Staff gave a presentation to a group of downtown Chandler merchants and business owners, outlining the standards and requirements proposed, and later, a briefing to the Downtown Chandler Community partnership (DCCP). Both groups have expressed support for the proposed amendments (Exhibit “C”, letter from DCCP attached).

One item of discussion that came up at both presentations was the impact of Prop 201 (Smoke-Free Arizona) that goes into effect statewide on May 1st. While all public places must be kept free of smoke indoors and within a specified distance of primary entrances, the new law will enable a business operator to designate an outdoor patio area for smoking as long as outdoor smoke is prevented from entering the building through door, window or vent openings. Consensus of the downtown merchants/business owners group was to have a level playing field with all other restaurants–citywide and beyond–wishing to designate an outdoor area for their patrons to smoke. Staff certainly concurs with the equal application of rules and regulations of the State (staff initially had considered prohibiting smoking within the outdoor serving area).

Although not required by Code, Staff has also sent courtesy notice of the Commission and Council hearings, as well as the draft text, to all owners and tenants of properties located within the CCD.

PLANNING COMMISSION VOTE REPORT:

Motion to Approve: In Favor: 4 Opposed: 0 Absent: 3 (Anderson, Gulsvig, Creedon)

RECOMMENDATION

Planning Commission and Staff recommend approval to amend the various sections of City Code as noted above, allowing liquor uses in CCD to extend their serving premises into the adjoining sidewalk right-of-way in accordance with the requirements set forth in the attached (Exhibit “A”).

PROPOSED MOTIONS

- a) I move to introduce and tentatively adopt Ordinance No. 3905, amending City Code Section 35-3203/D (Zoning code, City Center District), to allow liquor uses in CCD to extend their serving premises into the adjoining sidewalk right-of-way, as set forth in Exhibit “A”, attached.
- b) I move to introduce and tentatively adopt Ordinance No. 3908, amending City Code Sections 46-4.2/A and 46-4.2/B (Encroachment Permits for Sidewalk Furniture) to allow liquor uses in CCD to extend their serving premises into the adjoining sidewalk right-of-way, as set forth in Exhibit “A”, attached.

Attachments: Ordinance No. 3905
Ordinance No. 3908
Exhibit "A", Draft text
Exhibit "B", Map of CCD
Exhibit "C", Letter from DCCP