



Gordon Wozniak
Councilmember District 8

CONSENT CALENDAR
January 17, 2012

To: Honorable Mayor and Members of the City Council
From: Councilmember Gordon Wozniak
Subject: Referral: Elmwood Commercial District Quota Revisions

RECOMMENDATION

Refer to the Planning Commission (PC) a request to review the Elmwood Commercial District quota system and make recommendations to simplify the quota system to facilitate the opening of new businesses. In particular, the PC should consider 1) eliminating all retail quota categories, 2) combining the three food service quotas (carry-out, quick service & full service) into a single food service quota and maintain the requirement of needing to receive a Use Permit in order to exceed the numerical limitation for a food service establishment, and 3) other solutions which would make it easier to fill vacant storefronts while maintaining a vibrant business district.

CURRENT SITUATION AND ITS EFFECTS

When the Elmwood quota system was set up in the 1970s, the number of quotas and the quota categories were based on the business mix at the time. In the intervening decades, competition from Big Box stores and the Internet have caused many of the original businesses to lose their viability. In response to this exterior competition, some businesses have changed their product or service mix to meet changing customer demand. Sometimes as a result of these changes, business owners have found themselves in a different quota category, which was full, and thus in violation of the zoning ordinance.

Since, almost all of the existing quota categories are full, property owners without an existing quota slot have had difficulty in renting vacant storefronts. A particular example is 2992 College Avenue; the location was vacant for three years before A’Cuppa Tea secured a new quota slot after paying five thousand dollars for a Use Permit and undergoing a Public Hearing, which was then followed by an appeal of the Use Permit. During the three years that the space was vacant, several individuals expressed interest in opening a retail business in this space. However, because appropriate quota categories were full and the request to exceed the numerical limitations on a quota cost substantial time and money with no guarantee of success, no potential retailer chose to pursue this option. Due to the lack of open retail quota slots the retail space was converted, via a Use Permit with a Public Hearing, into an additional food service establishment. The increase in the percentage of food service establishments and the

corresponding decrease in the number of retail establishments is a matter of concern for some merchants and neighbors.

RATIONALE FOR RECOMMENDATION

The Elmwood Commercial District has many more quota categories and detailed descriptions of each category than any other Berkeley business district. The ten Elmwood quota categories are:

1. Arts/Craft Shops, Gift/Novelty Shops, Jewellery/Watch Shops
2. Barber/Beauty Shops
3. Bookstores, Periodical Stands
4. Clothing Stores, including Hats, Shoes and Accessories
5. Financial Service, Retail
6. Photocopy Stores, Printing, Fax
7. ATMs
- Food Service Establishments
8. Carry-Out Food Service (to-go only)
9. Quick Service Restaurants (tables, but self-service)
10. Full Service Restaurants (sit down, with table service)

The large number of quoted uses and their detailed description make zoning particularly complicated in the Elmwood commercial district. Sometimes a small change in the physical configuration of an establishment can result in a business being reclassified into a different quota category, which is already full, causing the business to be in violation of the quota system.

One way to improve the situation would be to simplify the system by collapsing all of the separate retail and food service categories into two broad categories: 1) Retail and 2) Food Service. By eliminating all numerical quotas in the Retail category, but retaining the current numerical limit for Food Service category, the new system should facilitate new business startups as well as simplify administration of the quotas. In addition, if there is a vacant storefront, without a quota slot, a new system should make it easier to fill this space with a retail business, by maintaining the requirement for a Use Permit to convert a retail space into a new food service establishment. In contrast, any new retail store would not require a quota slot.

CONTACT PERSON

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