

In the matter of the decision of the City Planning Commission to deny special permits to establish a 24-hour convenience market and special permit to sell beer and wine for off-site consumption on 0.43+ developed acre in the General Commercial (Executive Airport 4) (C-2(EA-4)) zone at the north-west corner of Blair Avenue and Freeport Boulevard (P87-392)

NOTICE OF DECISION  
AND  
FINDINGS OF FACT

At its regular meeting of December 3, 1987 the Planning Commission considered testimony and other evidence regarding the above entitlements. At its December 3, 1987 meeting the Planning Commission indicated an intent to deny both special permits based upon findings of fact due for the December 17, 1987 Planning Commission ~~meeting~~ *hearing meeting*, the Commission denied the special permits based upon the following findings of fact.

FINDINGS OF FACT - DENIAL OF 24-HOUR CONVENIENCE MARKET

1. Granting of the special permit to operate a 24-hour convenience market within 500' of residentially-zoned property is not based upon sound principles of land use in that:
  - a. being open between the hours of 11:00 P.M. and 6:00 A.M. will ~~cause a~~ *not be detrimental to the welfare of* nearby area residents and property owners ~~who/are/detected/by~~ *because it would lead to* loitering by and traffic from late night customers to the site; and
  - b. the site is located within 1-1/2 miles of three existing 24-hour convenience markets so that adequate facilities are *now* available; and
  - c. the Freeport Manor neighborhood has a high element of criminal activity and the establishment of a 24-hour facility may contribute to increased problems for the Police Department and area residents.
2. Granting the special permit will be detrimental to property in the vicinity in that 24-hour commercial activity will attract customers from throughout the area during times adjacent businesses *are closed* and residents are closed or sleeping, thereby increasing the probability of vandalism.
3. Granting the special permit will be detrimental to the public health, safety and welfare and result in the establishment of a nuisance in that:
  - a. the site is located within 2,000' of Argonaut High School, a continuation high school of 250 students, who may frequent the store as they currently do at the Airway Market *causing some of the students to be truant and to engage in loitering*; and
  - b. increased vehicle traffic would be generated at the congested intersection of Freeport and Blair; and
  - c. the elementary school children from Freeport Manor cross at Blair Avenue to attend Alice Birney Elementary School located at 43rd Avenue and 13th Street. Traffic from the site may conflict with pedestrian activities.

4. The proposed special permit is not consistent with the City's Interim Discretionary Land Use Policy in that the 1984 Airport Meadowview Community Plan states as a goal "To eliminate the characteristics of physical deterioration throughout the community" with an objective. "To make the identified concerns of the residents known to the departments or agencies responsible for addressing these concerns." Area residents have testified regarding the impact of a 24-hour convenience store and the Commission found that the proposed project does not eliminate physical deterioration.

FINDINGS OF FACT - DENIAL OF SPECIAL PERMIT FOR BEER AND WINE SALES

1. The proposed use will adversely affect the peace and general welfare of the surrounding neighborhood in that the adjacent businesses and their employees will be affected by patrons of the new business.
2. The proposed use will result in an undue concentration of establishments dispensing alcoholic beverages in that 17 businesses sell alcohol within 1-1/2 mile radius and three of those businesses are 24-hour convenience markets.
3. The proposed use will encourage the development of a blighted area in that Freeport Manor neighborhood has been affected by the presence of Police problems stemming from the sale of ~~AAHpt~~ alcoholic beverages at a nearby market. The addition of another establishment selling ~~AAHpt~~ alcoholic beverages will add to the existing Police problem.
4. The proposed use will be contrary to and adversely affect programs of redevelopment or neighborhood conservation in that the establishment of an 18th store selling beer and wine within 1-1/2 miles of the subject site will not encourage the elimination of physical or social deterioration of the Freeport Manor neighborhood.

---

Denied by the Planning Commission on  
December 17, 1987 for the December 3, 1987  
City Planning Commission meeting

---

Chairperson

In the matter of the decision of the City )  
Planning Commission to deny special permits )  
to establish a 24-hour convenience market )  
and special permit to sell beer and wine )  
for off-site consumption on 0.43+ developed )  
acre in the General Commercial (Executive )  
Airport 4) (C-2{EA-4}) zone at the north- )  
west corner of Blair Avenue and Freeport )  
Boulevard (P87-392) )

NOTICE OF DECISION  
AND  
FINDINGS OF FACT

At its regular meeting of December 3, 1987 the Planning Commission considered testimony regarding the above entitlements. At its December 3, 1987 meeting the Planning Commission indicated an intent to deny both special permits based upon findings of fact due December 17, 1987 Planning Commission hearing, the Commission denied the special permits based upon the following findings of fact.

FINDINGS OF FACT - DENIAL OF 24-HOUR CONVENIENCE MARKET

1. Granting of the special permit to operate a 24-hour convenience market within 500' of residentially-zoned property is not based upon sound principles of land use in that:
  - a. being open between the hours of 11:00 P.M. and 6:00 A.M. will cause a nuisance for nearby area residents and property owners who are affected by loitering and Traffic from late night customers to the site; and
  - b. the site is located within 1-1/2 miles of three existing 24-hour convenience markets so that adequate facilities are available; and
  - c. the Freeport Manor neighborhood has a high element of criminal activity and the establishment of a 24-hour facility may contribute to increased problems for the Police Department and area residents.
2. Granting the special permit will be detrimental to property in the vicinity in that 24-hour commercial activity will attract customers from throughout the area during times adjacent businesses and residents are closed or sleeping, thereby increasing the probability of vandalism.
3. Granting the special permit will be detrimental to the public health, safety and welfare and result in the establishment of a nuisance in that:
  - a. the site is located within 2,000' of Argonaut High School, a continuation high school of 250 students, who may frequent the store as they currently do at the Airway Market; and
  - b. increased vehicle traffic would be generated at the congested intersection of Freeport and Blair; and
  - c. the elementary school children from Freeport Manor cross at Blair Avenue to attend Alice Birney Elementary School located at 43rd Avenue and 13th Street. Traffic from the site may conflict with pedestrian activities.
4. The proposed special permit is not consistent with the City's Interim Discretionary Land Use Policy in that the 1984 Airport Meadowview Community

Plan states as a goal "To eliminate the characteristics of physical deterioration throughout the community" with an objective. "To make the identified concerns of the residents known to the departments or agencies responsible for addressing these concerns." Area residents have testified regarding the impact of a 24-hour convenience store and the Commission found that the proposed project does not eliminate physical deterioration.

FINDINGS OF FACT - DENIAL OF SPECIAL PERMIT FOR BEER AND WINE SALES

1. The proposed use will adversely affect the peace and general welfare of the surrounding neighborhood in that the adjacent businesses and their employees will be affected by patrons of the new business.
2. The proposed use will result in an undue concentration of establishments dispensing alcoholic beverages in that 17 businesses sell alcohol within 1-1/2 mile radius and three of those businesses are 24-hour convenience markets.
3. The proposed use will encourage the development of a blighted area in that Freeport Manor neighborhood has been affected by the presence of Police problems stemming from the sale of liquor at a nearby market. The addition of another establishment selling liquor will add to the existing Police problem.
4. The proposed use will be contrary to and adversely affect programs of redevelopment or neighborhood conservation in that the establishment of an 18th store selling beer and wine within 1-1/2 miles of the subject site will not encourage the elimination of physical or social deterioration of the Freeport Manor neighborhood.

---

Denied by the Planning Commission on  
December 17, 1987 for the December 3, 1987  
City Planning Commission meeting

---

Chairperson