

Allied Neighborhoods Association

TO: City Council

RE: BevMo! Project Appeal – July 27, 2010

The Allied Neighborhoods Association is urging you to grant the Appeal filed by Breathe Easy Santa Barbara. We base our support of the appeal on three reasons that we believe are specific to the review by ABR of this project although they may well point to difficulties with the review process in general.

First: Denial of Due Process.

Due Process requires that people have clear guidelines as to requirements including proper notice of when they need to act in order to file an appeal. The city's nomenclature regarding the ABR hearings is very misleading. It is not reasonable to expect the general populous to know that the proper time to file an appeal is after the Preliminary Hearing and not after the Final Hearing. Furthermore, the time to appeal is not announced at the ABR meetings.

The process this project underwent was confusing to those who were concerned about the impacts of the BevMo! project on their neighborhood. They were not informed that the proper time to file their appeal was after the Preliminary Hearing. Thus they lacked proper notice of when they should have acted and as reasonable people they assumed that the proper time to file their appeal was after the Final Hearing. The process was further confused because the ABR itself had to have a second Preliminary Hearing on this project, because they had failed to consider the Upper State Street Design Guidelines at the initial Preliminary Hearing. The result was that the ABR itself actually conducted serial preliminary hearings with an ambiguous process.

This appeal should not be dismissed on a technicality and the appellants should have their right to be heard on this project honored.

Second: The City did not enforce its own requirements equally.

This project is subject to two sets of requirements under the Municipal Code: requirements for the amount of parking as well as those of the Special District – 2 (SD-2) setbacks. The city required that the project meet the standard parking requirements by tearing down part of the building but failed to enforce those of the SD-2 for the proper set-backs. Yet the set-back requirement is really important and is central to achieving the Upper State Street goal of walk-ability. If a new traffic intensive project is not required to meet the higher standard of wider set-backs and upgrade the area, how will the city ever achieve having visual clearances and a pedestrian friendly environment for the whole Upper State Street corridor? Thus we question how the ABR can make the required Finding that this project is compatible with the Municipal Code. Nowhere is it written that one set of requirements has a priority over the other or that meeting one set is adequate to make the necessary Compatibility Finding. In addition, it cannot be argued under the Design Guidelines that the setback requirement should be waived for a Community Benefit.

Third: This project should not have been given a Categorical Exemption under CEQA.

A discretionary project should not be categorically exempt from environmental review if it has the potential to cause significant impacts.

This is the only BevMo! location in the state that is adjacent to a residential neighborhood. Not only does this project intend to sell liquor it also intends to offer advertized tastings several times a month. The city is already in the process of evaluating tasting events, so staff is aware that this type of activity has the potential for problems.

BevMo!'s proposed activities have the potential to have impacts on the neighborhood; cars of both employees and customers may drive around looking for parking and then park on the streets of the adjacent residential neighborhood. This project is located near Trader Joes where the City has already experienced such a parking problem.

There is also a potential traffic impact from adding even more traffic to an area where the city wanted to slow down the traffic as evidenced by the previous efforts of the City to want a change at the corner of De la Vina and State Street.

There is a potential safety problem since the phasing of the signal lights give green lights to both cars coming out of BevMo and those traveling along State Street.

This project will induce regional traffic and thus add more congestion to the 101 interchanges that are already operating at unacceptable levels.

We believe that these potential impacts were not given the review and evaluation they require.

For the above reasons we urge you to uphold this Appeal.

Cathie McCammon, President, Allied Neighborhoods Association