

**AGENDA MEMO - PLANNING****CITY COUNCIL MEETING DATE: DECEMBER 21, 2022****DEPARTMENT: COMMUNITY DEVELOPMENT****ITEM DESCRIPTION: APPLICANT: CNB PARTNERS VEGAS, LLC - OWNER:
FAEC HOLDINGS WIRRULLA, LLC****** STAFF RECOMMENDATION(S) ****

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
22-0523-SUP1	Staff recommends APPROVAL, subject to conditions:	
22-0523-SDR1	Staff recommends APPROVAL, subject to conditions:	22-0523-SUP1

**** NOTIFICATION ******NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 32**NOTICES MAILED** 560 (by City Clerk)**PROTESTS** 0**APPROVALS** 2

**** CONDITIONS ****

22-0523-SUP1 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for an Alcohol On-Premise Full use.
2. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (22-0523-SDR1) shall be required, if approved.
3. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit, as well as submitted as part of any business license application.
6. Approval of this Special Use Permit does not constitute approval of a liquor license.
7. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
8. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

22-0523-SDR1 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (22-0523-SUP1) shall be required, if approved.

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2. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. All development shall be in conformance with the site plan and building elevations date stamped 09/22/22 and floor plan of rooftop sky diving attraction date stamped 11/01/22, except as amended by conditions herein.
4. Prior to the issuance of building permits for a second permanent open air wind tunnel on the roof of the existing structure, the development will be subject to the approval of an additional Site Development Plan Review.
5. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety.
6. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
7. A Waiver from Title 19 Appendix F Interim Downtown Las Vegas Development Standards is hereby approved, to allow mechanical equipment to not be screened from the street level and surrounding building views.
8. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.
9. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

10. Coordinate with the Environmental Compliance & Enforcement staff of the Department of Public Works to locate any required grease interceptor and sand/oil interceptors in acceptable locations prior to submittal of sewer-related plans. Comply with the recommendations and requirements of the Environmental Compliance & Enforcement staff prior to issuance of permits. The team may be contacted at 702-229-2338 or emailed at ece@lasvegasnevada.gov.

**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is proposing an Alcohol, On-Premise Full use at the Neonopolis located at 450 Fremont Street, Suite #310. A companion Site Development Plan Review is also requested for an outdoor patio area proposed as part of the Alcohol, On-Premise Full use and to install a commercial recreation (outdoor) [outdoor sky diving] facility on the roof of the building.

ISSUES

- The applicant has requested a Special Use Permit (22-0523-SUP1) for the Alcohol, On-Premise Full use in the C-2 (General Commercial) zoning district. Staff supports this request.
- The Commercial Recreation/Amusement (Outdoor) [outdoor skydiving] use is permitted within the C-2 (General Commercial) zoning district.
- The applicant has requested a Waiver of Title 19 Appendix F Interim Downtown Las Vegas Development Standards, to allow mechanical equipment to not be screened from the street level and surrounding building views. Staff supports this request.
- The Nightclub use is a Conditional use within the C-2 zoning district, which the subject site meets.
- The subject suite will operate as a Nightclub use and a portion of the proposed Night Club use will be not in an enclosed portion of a building. Per Title 19.12 for a Nightclub use, outdoor activities are required to be reviewed through a Site Development Review (22-0523-SDR1). Staff supports this request.
- This project requires the approval of the Fremont Street Experience Limited Liability Company (FSELLC). A letter of approval date stamped 10/20/22 from FSELLC has been included with this application. The submitted letter indicates, "The proposed improvements include the installation of two (2) permanent open air wind tunnels along with a plane prop for the southwest corner of the Neonopolis roof as depicted in the attached drawings. The FSELLC will approve one (1) open air wind tunnel at this time. Evaluation and the approval process for a second wind tunnel will be considered at a later date. In compliance with this request the applicant has submitted a revised rooftop floor plan drawing date stamped 11/01/22 that depicts one open air wind tunnel on the roof. A condition of approval has been added that states, "Prior to the issuance of building permits for a second permanent open air wind tunnel on the roof of the existing structure, the development will be subject to the approval of an additional Site Development Plan Review."

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ANALYSIS

The applicant has proposed to develop a 15,700 square-foot Nightclub venue and Alcohol, On-Premise Full use with a 2,599 square-foot outdoor patio area within the Neonopolis at 450 Fremont Street, Suite #310. The Neonopolis is a three level entertainment center at the eastern end of the Fremont Street Experience. The entertainment center features 264,210 square feet of retail, dining, and bar/nightclub uses. The building sits atop a two level underground parking garage containing 555 parking stalls. The subject site is zoned C-2 (General Commercial) and is subject to Title 19 development standards. The subject tenant space was previously operated as a television broadcast studio.

A Nightclub use is described in Title 19.12 as: “An entertainment establishment, whether indoor, outdoor, or both, with an occupancy load of 100 or more people that:

1. Provides any combination of live music, recorded music, or other entertainment for the primary purpose of encouraging social interaction amongst the patrons of the establishment;
2. Contains one or more delineated dance floor areas; and
3. May or may not provide food services. If the establishment provides food, the food service must be both limited and incidental to the operation of the establishment.

The Nightclub use also includes the use “Dayclub,” which possesses the same characteristics of a Nightclub, but operates primarily during the daytime hours. The use does not include a General Entertainment Establishment, Sexually Oriented Business or an establishment that qualifies as a Teen Dance Center. The use shall not be deemed to include an establishment merely because it includes entertainment if the entertainment is primarily intended to be viewed by an audience. The use shall also not be deemed to include an establishment that provides entertainment if that entertainment is incidental to the primary activity of the establishment and consists merely of ambient or background music intended to create or enhance a mood or atmosphere, or karaoke singing and interaction, or a combination thereof.”

Nightclub - Conditional Use Regulations

1. A Nightclub use that is located within the Downtown Entertainment Overlay District as defined by LVMC Title 19.10.120, within the boundaries of the Pedestrian Mall as defined by LVMC 11.68, or within the boundaries of the 18b Las Vegas Arts District, as shown in Figure 3 of the Development Standards adopted in LVMC 19.10.110(B), and as amended from time to time, is exempt from the application of Regulations 2 through 5. Except as otherwise limited by the final sentence of this Regulation 1 and Regulations 7 and 8, such a use shall be deemed to be a use permitted by right. Any outdoor activity areas must first be approved by means of a Site Development Plan Review pursuant to LVMC 19.16.100.

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The proposed Nightclub uses complies with this condition, as the subject site is located within the boundaries of the Pedestrian Mall and is exempt from the application of Regulation 2 through 5. The applicant has requested a Site Development Plan Review (22-0523-SDR1), to allow the proposed 2,599 square-foot outdoor patio area associated with the Nightclub use.

2. In the C-1 District, the Nightclub use shall be limited to a maximum of 5,000 gross square feet in area.

This condition is not applicable, as the proposed Nightclub use is located within the Pedestrian Mall and is exempt from the application of Regulation 2 through 5.

3. All Nightclub activities, including customer queueing and waiting areas (but excluding valet services and the checking of patron's identification), must be conducted within a completely enclosed building. In the C-M and M Zoning Districts, outdoor activity areas must first be approved by means of a Site Development Plan Review pursuant to LVMC 19.16.100.

This condition is not applicable, as the proposed Nightclub use is located within the Pedestrian Mall and is exempt from the application of Regulation 2 through 5.

4. Except as otherwise provided in Regulation 5, no Nightclub may be located within 500 feet of any parcel that contains a single-family dwelling.

This condition is not applicable, as the proposed Nightclub use is located within the Pedestrian Mall and is exempt from the application of Regulation 2 through 5.

5. The distance separation requirement set forth in Regulation 4 does apply to:
 - a. An establishment which has a non-restricted gaming license in connection with a hotel having 200 or more guest rooms on or before July 1, 1992, or in connection with a resort hotel having in excess of 200 guest rooms after July 1, 1992.
 - b. A hotel having 200 or more guest rooms.
 - c. A Nightclub that meets all of the following criteria:
 - i. Is located on a parcel that is adjacent to Las Vegas Boulevard between Charleston Boulevard and Fremont Street;
 - ii. Is located on a parcel with a minimum net site area of 0.25 acres; and
 - iii. Is located within a building that has a minimum 5,000 square feet of gross floor area dedicated to the Nightclub use.
 - d. A Nightclub operated in conjunction with an establishment that has a tavern-restricted alcoholic beverage license pursuant to LVMC 6.50.253

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This condition is not applicable, as the proposed Nightclub use is located within the Pedestrian Mall and is exempt from the application of Regulation 2 through 5.

6. Alcohol service, if any, is permitted only in conjunction the following Title 6 alcoholic beverage licenses: Beer and Wine Room, Tavern, Tavern—Limited, Tavern-Restricted, General On-Sale and Urban Lounge.

The applicant has requested a Special Use Permit (22-0523-SUP1) to allow for a proposed Alcohol On-Premise Full use to be operated in conjunction with the Nightclub to allow alcohol service for the establishment.

7. Nightclubs shall conform to all applicable requirements of LVMC Title 6.

The proposed use will be subject to all business licensing requirements outlined in LVMC Chapter 6.

8. Unless otherwise exempted by that Chapter, Nightclubs shall conform to all noise requirements and limitations of LVMC Chapter 9.16.

The proposed use will be subject to regular inspections to assure adherence to conformance to all requirements and limitations outlined in LVMC Chapter 9.16.

The Alcohol, On-Premise Full use is defined as follows: “An establishment licensed to sell alcoholic beverages, not limited to the sale of beer, wine and coolers, for consumption on the premises where the same are sold.” The proposed use meets the definition, because they plan to sell liquor and beer as a part of the Night Club use, and the alcohol sold will remain on premises at all times. An approved Special Use Permit is required for any establishment proposing an Alcohol, On-Premise Full use.

The Minimum Special Use Permit Requirements for this use include:

1. Pursuant to its general authority to regulate the sale of alcoholic beverages, the City Council declares that the public health, safety and general welfare of the City are best promoted and protected by generally requiring a minimum distance separation between an Alcohol, On-Premise Full establishment and certain other uses that should be protected from the impacts associated with that establishment. Therefore, except as otherwise provided in these Requirements, no Alcohol, On-Premise Full establishment may be located within 400 feet of any of the following uses:
 - a. Church/house of worship;
 - b. School;
 - c. Individual care center licensed for more than 12 children; or
 - d. City park.

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The proposed Alcohol, On-Premise Full establishment meets this requirement as it is not within 400 feet of any of the uses listed above.

2. The distance separation requirement set forth in Requirement 1 does not apply to the following:

An establishment which has a non-restricted gaming license in connection with a hotel having 200 or more guest rooms on or before July 1, 1992, or in connection with a resort hotel having in excess of 200 guest rooms after July 1, 1992; or Any Alcohol, On-Premise Full use located on property within the Pedestrian Mall, as defined in LVMC Chapter 11.68; the Downtown Entertainment Overlay District, as described in LVMC 19.10.120; or the 18b Arts District, as described in Appendix F to this Title. The Special Use Permit approval may include conditions designed to mitigate any impacts related to distance separation.

The requirement is not applicable, the subject is not an establishment which has a non-restricted gaming license in connection with a hotel having 200 or more guest rooms on or before July 1, 1992, or in connection with a resort hotel having in excess of 200 guest rooms after July 1, 1992.

In addition, the applicant has requested a Site Development Plan Review (22-0523-SDR1) to allow the construction of the exterior elements of an open-air skydiving attraction to be located on the roof of the Neonopolis, which will be accessed by pedestrian pathway from the outdoor patio area to the roof. The submitted building elevation indicates the skydiving attraction will extend approximately 35 feet above the parapet of the roof. As a result, the applicant has requested a Waiver of Title 19 Appendix F Interim Downtown Las Vegas Development Standards, to allow mechanical equipment to not be screened from the street level and surrounding building views.

The submitted justification letter date stamped 09/22/22 indicates, the attraction is called the "Aerodium" consists of technology currently used for indoor skydiving and movie stunts that will be made available for the public to enjoy as part of the Downtown Las Vegas experience. The letter goes on to state, "The outdoor elements of the roof attraction are consistent with other structures associated with entertainment opportunities in the immediate vicinity, and the equipment itself incorporates features to ensure the safety of the participants. A specially designed wind flow prevents a flyer from leaving the wind column, while the outer perimeter integrates a special safety net and padded cushions at ground level. Guests receive "flight training" prior to participation, and will always be accompanied by an instructor.

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Airflow can be increased or decreased (within established safety parameters) based on the comfort of the participant. The technology associated with Aerodium is specifically designed for use in permanent locations within urban environments and its low noise level of 65 dB in the spectator area and 90 dB for the limited areas directly within the flight zone allows installation without significant disruption to the surrounding environment.

Originally, the applicant proposed to install two (2) permanent open air wind tunnels along with a plane prop for the southwest corner of the Neonopolis roof. However, a letter of approval date stamped 10/20/22 from FSELLC has been included with this application. The submitted letter indicates, "The proposed improvements include the installation of two (2) permanent open air wind tunnels along with a plane prop for the southwest corner of the Neonopolis roof as depicted in the attached drawings. The FSELLC will approve one (1) open air wind tunnel at this time. Evaluation and the approval process for a second wind tunnel will be considered at a later date. In compliance with this request the applicant has submitted a revised rooftop floor plan drawing date stamped 11/01/22 that depicts one open air wind tunnel on the roof. A condition of approval has been added that states, "Prior to the issuance of building permits for a second permanent open air wind tunnel on the roof of the existing structure, the development will be subject to the approval of an additional Site Development Plan Review."

Also, the submitted interior floor plans indicate the interior tenant space will provide area for a restaurant with modified bowling lanes, bars, private meeting area, an event room, an outdoor patio area, arcade machines, and amusement games. Staff recommends approval of the request for a Special Use Permit for Alcohol, On-Premise Full use and the associated Site Development Review for the proposed outdoor patio as the activity can be conducted in a manner that is harmonious and compatible with the surrounding area.

FINDINGS (22-0523-SUP1)

In order to approve a Special Use Permit application, per Title 19.16.110(L) the Planning Commission and City Council must affirm the following:

- 1. The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.**

The existing surrounding land uses consist of general retail establishments, Taverns, restaurants and nightclub uses. The proposed Alcohol, On-Premise Full use can be conducted in a manner that is harmonious and compatible with the existing surrounding uses.

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- 2. The subject site is physically suitable for the type and intensity of land use proposed.**

The subject site can physically accommodate the proposed Alcohol, On-Premise Full use and is in close proximity of other commercial uses in the area.

- 3. Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.**

Site access is provided from Las Vegas Boulevard, an 80-foot Primary Arterial and 4th Street, an 80-foot Major Collector Street as designated in the Master Plan of Streets and Highways. These streets are sufficient in size to accommodate the needs of the proposed use.

- 4. Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.**

The proposed Alcohol, On-Premise Full use will be subject to regular inspections during rehabilitation of the building itself by the Department of Building and Safety, and regular inspections by the Department of Community Development – Business Licensing Division once a business license is issued protecting the public health, safety, and welfare. The objectives of the General Plan will be met by the conversion of the subject site into a commercial use.

- 5. The use meets all of the applicable conditions per Title 19.12.**

The proposed Alcohol, On-Premise Full use has met the requirements set forth by both Title 19.12.

FINDINGS (22-0523-SDR1)

In order to approve a Site Development Plan Review application, per Title 19.16.100(E) the Planning Commission and/or City Council must affirm the following:

- 1. The proposed development is compatible with adjacent development and development in the area;**

The proposed development is compatible with development in the surrounding area. The balcony is located on the exterior of the building and fronts directly adjacent to Fremont Street. Therefore it is not expected to pose a nuisance to neighboring properties.

2. **The proposed development is consistent with the General Plan, this Title, and other duly-adopted city plans, policies and standards;**

The proposed development is consistent with the General Plan, Title 19, and the Downtown Casino Overlay, and Appendix F: Interim Downtown Las Vegas Development Standards.

3. **Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;**

Site access remains as constructed and will not negatively impact adjacent roadways or neighboring traffic.

4. **Building and landscape materials are appropriate for the area and for the City;**

The existing building materials are appropriate for the area.

5. **Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;**

Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance.

6. **Appropriate measures are taken to secure and protect the public health, safety and general welfare.**

The proposed development is subject to permit review and inspection; therefore, appropriate measures will be taken to protect the health, safety and general welfare.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i>	
03/23/98	The City Council approved a Site Development Plan Review (SD-0003-98) for a proposed 264,210 square-foot Retail/Entertainment Complex at 450 Fremont Street. The Planning Commission and staff recommended approval.
10/15/08	The City Council approved a request for a Special Use Permit (SUP-29194) for a proposed TV Broadcasting and Other Communication Service use at 450 Fremont Street, Suite #310. The Planning Commission recommended approval of the request.
	The City Council approved a request for a Special Use Permit (SUP-29197) for three proposed 16-foot tall satellite dishes with a maximum 12-foot diameter at 450 Fremont Street, Suite #310. The Planning Commission recommended approval of the request.
11/15/22	<p>The Planning Commission voted (6-0) to recommend APPROVAL of the following Land Use Entitlement project requests on 2.75 acres at 450 Fremont Street, Suite #310 (APN 139-34-513-002), C-2 (General Commercial) Zone, Ward 5 (Crear)</p> <p>22-0523-SUP1 - SPECIAL USE PERMIT - FOR A PROPOSED 15,700 SQUARE-FOOT ALCOHOL, ON-PREMISE FULL USE WITH A 2,599 SQUARE-FOOT OUTDOOR PATIO</p> <p>22-0523-SDR1 - SITE DEVELOPMENT PLAN REVIEW - FOR A PROPOSED NIGHT CLUB WITH OUTDOOR PATIO AND COMMERCIAL RECREATION (OUTDOOR) [OUTDOOR SKY DIVING] FACILITY WITH A WAIVER OF APPENDIX F INTERIM DOWNTOWN LAS VEGAS DEVELOPMENT STANDARDS</p>

<i>Most Recent Change of Ownership</i>	
04/01/13	A deed was recorded for a change in ownership.

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Related Building Permits/Business Licenses	
10/01/96	A business license (#T27-00001) was issued for a Television broadcast Station (KBLR TV 39) at 450 Fremont Street, Suite #310. The license was marked out of business on 09/11/19.
09/02/15	A business license (#G63-05878) for a business space rent or lease at 450 Fremont Street, Suite #310. The license is still active.
08/04/22	A building permit (#C22-03079) was processed for tenant improvements for a proposed bar and restaurant (Crash N' Burn) at 450 Fremont Street, Suite #310. The permit has not been issued.

Pre-Application Meeting	
09/01/22	A Pre-Application meeting was conducted with the applicant to review the application materials and submittal requirements for a Special Use Permit and Site Development Plan Review for a proposed indoor and outdoor nightclub, commercial recreation indoor/outdoor venue and Alcohol On-Premise Full use located on Fremont Street within the Neonopolis shopping center.

Neighborhood Meeting	
A neighborhood meeting was not required, nor was one held.	

Field Check	
09/29/22	Staff completed a routine field check and found the tenant space and property to be well-maintained.

Details of Application Request	
Site Area	
Net Acres	2.75

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<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Shopping Center	C (Commercial)	C-2 (General Commercial)
North	Hotel & Casino	C (Commercial)	C-2 (General Commercial)
South	Parking Garage	C (Commercial)	C-2 (General Commercial)
	Liquor Establishment (Tavern)		
	General Retail Store		
	Restaurant		
East	Multi-Family Residential	FBC (Form-Based Code)	T6-UC (T6 Urban Core)
	Restaurant		
	Tavern-Limited Establishment		
West	General Retail Store	C (Commercial)	C-2 (General Commercial)
	Restaurant		
	Parking Garage		

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Master Plan 2050 Area: Downtown Las Vegas	N/A
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District - 200 Feet	Y
DC-O (Downtown Casino Overlay) District	Y
DTLV-O (Downtown Las Vegas Overlay) District – Area 1 (Resort & Casino District)	Y
LW-O (Live/Work Overlay) District	Y
SB-O (Las Vegas Boulevard Scenic Byway Overlay) District	Y

<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan (Area 1)	Y
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

DEVELOPMENT STANDARDS

Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
Las Vegas Boulevard	Primary Arterial	Master Plan of Streets and Highways	80	Y
4 th Street	Major Collector	Master Plan of Streets and Highways	80	Y

Pursuant to approved Site Development Plan Review (SD-0003-98), the following parking standards apply:

Parking Requirement - Downtown (Area 1)							
Use	Gross Floor Area or Number of Units	Base Parking Requirement		Provided		Compliance	
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center	264,210 SF	1:250 SF	1,057				
TOTAL SPACES REQUIRED			1,057		555		Y*

*Projects located within the Downtown Las Vegas Overlay - Area 1 are not subject to the automatic application of parking requirements. However, the above table should be used to illustrate the requirements of an analogous project in another location in the City.