STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

May 19, 2026

Zach Heinselman
City of Moorpark
350 South Grand Ave, 37th Floor
Los Angeles, CA 90071

Re: Your Request for Advice
Our File No. A-26-015

Dear Mr. Heinselman:

This letter responds to your request for advice on behalf of City of Moorpark Councilmember Chris Barrett and Mayor Pro Tem Antonio Castro regarding the conflict of interest provisions of the Political Reform Act (the "Act").[1]

Please note that we are providing advice only under the Act's conflict of interest provisions, not under other general conflict of interest prohibitions, such as common law conflict of interest or Section 1090.

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTIONS

1. Does Councilmember Barrett have a disqualifying financial interest in the following decisions:

   a) The Downtown Specific Plan.
   b) The Entertainment Zone.
   c) The High Street Depot Lawn, Consumption of Alcoholic Beverages?

2. Does Mayor Pro Tem Castro have a disqualifying financial interest in the above decisions?

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[1] The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

3. If yes, does the public generally exception apply to allow for either official's participation?

4. If yes, may the City segment the Downtown Specific Plan decisions to allow either official's participation in the decisions?

CONCLUSIONS

1. Yes. Councilmember Barrett has a disqualifying financial interest and may not take part in the decisions.

a) Councilmember Barrett has a financial interest in Groff Equity Management as an "otherwise related business" of his employer due to Dan Groff's sole ownership of both businesses. Groff Equity Management's parcel is subject to the Downtown Specific Plan decisions. Because the parcel is explicitly involved in the decisions, it is reasonably foreseeable that the decision will have a material financial effect on Councilmember Barrett's financial interests in Groff Equity Management.

b) The Entertainment Zone decision would change the permitted alcohol sales for any appropriately licensed business in the Groff Building, given its location on High Street. Considering that there are only five businesses operating from properties within the Entertainment Zone subject to the change in permitted alcohol sales, the decision is an action directed at Groff Equity Management and the underlying use of its property. Because Groff Equity Management is explicitly involved in the decision, it is reasonably foreseeable that the decision will have a material financial effect on Councilmember Barret's financial interest in the company.

c) The facts indicate that the City intends to present the Depot Lawn decision together with the Entertainment Zone decision. The two decisions address a similar issue: the use of public spaces and alcohol consumption, and the Depot Lawn is adjacent to the proposed Entertainment Zone on High Street. Thus, as a result of Councilmember Barrett's disqualifying interest in the Entertainment Zone, he is also prohibited from any participation in the Depot Lawn decision. Based on the information provided, the two decisions are "inextricably interrelated" because the result of one decision will effectively determine, affirm, nullify, or alter the result of another decision. (See Regulation 18706(b), and the segmentation discussion below.)

2. Yes. Mayor Pro Tem Castro has a disqualifying financial interest and he may not take part in the decisions.

a) Mayor Pro Tem Castro has a disqualifying financial interest in the Downtown Specific Plan decision, as his residential real property is a subject of the decisions. Thus, Mayor Pro Tem Castro's interest in his residence is explicitly involved in the decision and it is reasonably foreseeable that the decision will have a material financial effect on his financial interest in the residence.

b) Mayor Pro Tem Castro has a disqualifying financial interest in the Entertainment Zone decision because his residence is within 360 feet of the Entertainment Zone, and the facts do not provide clear and convincing evidence that the decision will not have any measurable impact on his property. Therefore, it is reasonably foreseeable that the decision will have a material financial effect on his financial interest in the residence.

c) As a result of Mayor Pro Tem Castro's disqualifying interest in the Entertainment Zone, he is also prohibited from any participation in the Depot Lawn decision for the reasons stated above.

3. No. The public generally exception does not apply to allow either official to participate in the Downtown Specific Plan decision.

4. Segmentation of the Downtown Specific Plan decision may only be used to the extent that the City Council makes final decisions regarding the development plan or criteria applying to the official's financial interest, including any zoning decisions that apply, and any subsequent decisions *does not otherwise* have a reasonably foreseeable financial effect on the official's financial interest under the materiality standards discussed below. We recommend you seek further advice, as needed, when specific decisions are known.

FACTS AS PRESENTED BY REQUESTER

The City of Moorpark ("City") is a general law city with a population of over 36,000 residents in eastern Ventura County. High Street is the historic and cultural downtown center of the City. The City has prioritized re-investing in the High Street area and supporting its revitalization.

1. City's Downtown Specific Plan

The City will consider an update to the City's Downtown Specific Plan in order to implement the 2050 General Plan. This may include changes in the allowed uses of particular properties and revised development standards. The Downtown Specific Plan was originally adopted in 1998 and has since been amended several times. The Downtown Specific Plan acts as the governing zoning document for a 0.27 square mile section of the City's historic core, including High Street, and applies to 295 parcels. The Downtown Specific Plan area not only includes the properties on each side of High Street but also applies to other parts of historic Moorpark, including the residential neighborhood north of High Street, the railroad right of way south of High Street, and the properties along Moorpark Avenue north of Los Angeles Avenue. The Downtown Specific Plan implements design standards, guidelines, and a strategy for attracting and developing businesses on City-owned downtown parcels.

The Downtown Specific Plan update preparation process includes a number of public workshops intended to solicit feedback on possible uses, building forms, parking, open space, and other public amenities for Downtown Moorpark. After these workshops, a draft plan will be presented to the City Council for feedback anticipated to be in May 2026, before returning to the City Council for public hearing(s) anticipated to be in June 2026. The proposed updates will modernize the Downtown Specific Plan to implement the vision established by the 2050 General Plan by emphasizing high-quality design, encouraging housing and mixed-use projects, enhancing public spaces, improving walking and transit connections, and building on the character that makes downtown Moorpark unique. The revisions to the Downtown Specific Plan may include changes to the allowed uses of particular properties and revised development standards and ensure consistency with the 2050 General Plan.

2. City's Entertainment Zone Ordinance for High Street

The City will also consider adopting an ordinance that creates an Entertainment Zone, in accordance with Business and Professions Code Sections 25690-25692. You state that the Entertainment Zone decision is a decision that is not a part of the Downtown Specific Plan decisions.[2] In an established Entertainment Zone, patrons may leave the premises of a licensed beer manufacturer, wine manufacturer or on-sale licensee (including a "type 47" license) with open containers of alcoholic beverages for consumption off the premises within a designated open container entertainment zone, subject to state and local conditions, requirements, and guidelines.

The proposed Entertainment Zone recommended by City staff will apply to High Street between Moorpark Avenue and Spring Road. It is anticipated that the proposed Entertainment Zone would be limited to certain specified dates. Staff anticipates recommending that the Entertainment Zone be operational no more than the number of days permitted for street closure events, which staff estimates will be six days a year. Staff will recommend that, in general, the anticipated dates of operation for the Entertainment Zone coincide with existing events for which this portion of High Street is already closed to vehicular traffic and open to the public, such as Country Days, Apricot Festival, Haunted High Street, and Holiday on High Street. The proposed Entertainment Zone operating hours would be from 10 a.m. to 10 p.m. In the future, the City Council may discuss allowing the Entertainment Zone to operate more frequently, in addition to the recommended six-day period, or allowing the Entertainment Zone to operate for additional hours, up to the same hours that businesses with Department of Alcoholic Beverage Control licenses in the Entertainment Zone are allowed to sell alcohol.

Impacts associated with the Entertainment Zone on surrounding properties are not expected to be any different than impacts associated with the existing events for which the City closes off High Street to vehicular use and opens that portion of High Street for pedestrian uses. There are currently 75 licensed beer manufacturers, wine manufacturers, or on-sale licensees in

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[2] Please see the discussion on "inextricably interrelated" decisions and segmentation below. We caution that for purposes of the Act, decisions are "separate" only to the extent that the resolution of one decision will not effectively determine, affirm, nullify, or alter the result of the other decision. (Regulation 18706(b).)

the City. Staff anticipates that five of these licensees would be able to participate in the Entertainment Zone because they have licenses to sell alcohol and are located along High Street. Staff anticipates that the Entertainment Zone will likely increase sales of alcoholic beverages by businesses eligible to participate in the Entertainment Zone during the times of the specific events noted above.

3. Consumption of Alcoholic Beverages: High Street Depot Lawn.

In conjunction with the potential Entertainment Zone decision, staff is also exploring allowing for the consumption of alcoholic beverages within the privately owned open space lawn of the Depot development, High Street Depot Lawn. You clarified that while the Entertainment Zone and the High Street Depot Lawn Beverages decisions will be decided with distinct votes, "City staff intends to present the topics together because they deal with a similar issue of use of public spaces and consumption of alcohol, and the Depot Lawn is adjacent to the proposed Entertainment Zone on High Street."

The High Street Depot ("Depot") is a mixed-use development on a 137-acre site located at 2256 High Street that includes 79 residential rental units and 14,471 square feet of ground-floor commercial retail space. The site also includes a central community green space ("Lawn") that is part of the Depot and is privately owned by the developer of the Depot project. The alcohol consumption allowance would apply when those beverages are served by prospective licensed restaurants within that project and during the operating hours of such businesses, not just during High Street closure events that would be a part of the proposed Entertainment Zone. City staff proposes this limitation to mitigate impacts on the 79 residential units located within the development. This approach ensures a higher level of oversight and noise management than unmanaged public use of the space, while maintaining a clear distinction between daily operations and the higher-intensity High Street closure events.

There are currently no restaurants or licensees with the project adjacent to the Depot Lawn, and any new users would need to be permitted by the City. Staff anticipates that allowing alcohol consumption in this location would provide an integrated and flexible social experience compared to traditional outdoor dining confined to a restaurant's footprint, as it utilizes the existing 137-acre site's interior layout to naturally buffer the drinking activity from neighboring off-site properties. While the Lawn area is primarily passive green space, this "activation" is expected to create a controlled area for social activity that enhances the vibrancy of the commercial spaces in the Depot development. In other words, it will likely bring more people to businesses around the Depot Lawn, and they will be able to drink alcohol there.

Councilmember Barrett

Councilmember Barrett is a member of the City Council representing District 2. This district does not include any territory within the Downtown Specific Plan or along High Street. Councilmember Barrett does not own property within the Downtown Specific Plan or along High Street or within 1,000 feet of the boundaries of the Downtown Specific Plan or High Street.

Councilmember Barrett receives a salary exceeding $500 annually from Insurance Brokers West, which is located at 233 E High Street, in the Groff Equity Management Building ("Groff Building") within the Downtown Specific Plan area. Daniel Groff owns Insurance Brokers West. The Groff Building is owned by another business, Groff Equity Management, which is also owned by Daniel Groff.

Staff anticipates that under the Downtown Specific Plan update, the Groff Building as well as the properties within 1,000 feet would be rezoned from Mixed Use Medium to High Street Mixed Use. This anticipated change is expected to primarily function as a change in the name of the zoning district rather than to carry with it significant or material changes to development standards applicable to the property. However, the degree of potential changes to applicable development standards will depend on the contents of the draft update plan and public hearing process and are uncertain at this time.

The Groff Building is located on the north side of High Street, within the area proposed for the Entertainment Zone on High Street, between Moorpark Avenue and Spring Road. The building's parcel is fully developed and the building was recently renovated. Another tenant in this building is Freda's Fine Food and Drinks (the "Restaurant"), which has a type 47, on-sale liquor license. Daniel Groff is a financial partner in the Restaurant but not the general partner. You have confirmed that Daniel Groff owns less than 50 percent of the Restaurant and, as a financial partner, does not share in the direction or control of the Restaurant. Councilmember Barrett has no ownership interest or any involvement with Groff Equity Management or the Restaurant. The Groff Building is located 82 feet from the nearest edge of the Depot property and 125 feet from the Depot Lawn.

Mayor Pro Tem Castro

Mayor Pro Tem Castro is a member of the City Council representing District No. 4. The territory of the City included within the Downtown Specific Plan and the proposed Entertainment Zone are located in Mayor Pro Tem Castro's Council District No. 4. Mayor Pro Tem Castro owns his primary residence on Charles Street. The property is zoned for R-1 and is within the boundaries of the Downtown Specific Plan. Staff anticipates that under the Downtown Specific Plan update, the property would not be rezoned. Property within 1,000 feet of his, also within the Downtown Specific Plan area, would be re-zoned with some of the rezoning action merely to change the name of the applicable zone and with uncertain changes in development standards for those properties.

Mayor Pro Tem Castro's residential property is located within 360 feet of the proposed Entertainment Zone, one block away. However, High Street and the proposed Entertainment Zone area is not visible or directly accessible from Mayor Pro Tem Castro's property. The six recommended Entertainment Zone operation dates are anticipated to coincide with existing City events, and are not expected to create new or additional impacts on adjacent properties if the Entertainment Zone operating hours are limited to dates when High Street is already closed for community events, as proposed.

Mayor Pro Tem Castro's residence and property is located approximately 968 feet from the nearest edge of the Depot property and 1,187 feet from the Depot Lawn. The Depot property on E. High Street appears to end at Magnolia Street and is located a block further to the west, away from Mayor Pro Tem Castro's residence, than his residence's distance to the border of the High Street Entertainment Zone.

City Statistics

The Downtown Specific Plan Area includes 295 properties, which is 3.6 percent of all real property in the City. In Council District 4, according to staff calculations, there are 1,842 parcels, of which 1,475 are residential parcels. 13.4 percent (247 parcels) are in the Downtown Specific Plan Area. Of these, 158 are residential parcels.

ANALYSIS

The Act's conflict of interest provisions prohibit a public official from "making, participating in making, or in any way attempting to influence a governmental decision"[3] if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's financial interests distinguishable from the decision's effect on the public generally. (Sections 87100 and 87103.)

The financial interests that may give rise to an official's disqualifying conflict of interest under the Act are set forth in Section 87103 and include:

- An interest in a business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d)).

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[3] Regulation 18704 defines these terms as follows:

(a) Making a Decision. A public official makes a governmental decision if the official authorizes or directs any action, votes, appoints a person, obligates or commits the official's agency to any course of action, or enters into any contractual agreement on behalf of the official's agency.
(b) Participating in a Decision. A public official participates in a governmental decision if the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review.

(c) Using Official Position to Attempt to Influence a Decision. A public official uses an official position to influence a governmental decision if the official:

(1) Contacts or appears before any official in the official's agency or in an agency subject to the authority or budgetary control of the official's agency for the purpose of affecting a decision; or

(2) Contacts or appears before any official in any other government agency for the purpose of affecting a decision, and the public official acts or purports to act within the official's authority or on behalf of the official's agency in making the contact.

- An interest in any real property in which the official has an interest of $2,000 or more. (Section 87103(b).)

- An interest in a source of income to the official or promised income, which aggregates to $500 or more within 12 months prior to the decision. (Section 87103(c).)

Councilmember Barrett's Financial Interests

Councilmember Barrett has a business-entity and source-of-income interest in his employer, Insurance Brokers West, which is owned and managed by Daniel Groff. As detailed below, Councilmember Barrett also has a financial interest in Daniel Groff, as an individual, under Regulation 18700.1(a)(2); and a business entity interest in Groff Equity Management as an "otherwise related business entity" to Insurance Brokers West under Regulation 18700.2(c). This is due to Daniel Groff's sole ownership of the two businesses, as discussed below.

Addressing his interest in Daniel Groff, Regulation 18700.1(a)(2) states that, in addition to having a financial interest in any business entity from which the official has received income of $500 or more within 12 months before the relevant governmental decision is made, the official has a source-of-income financial interest in the following individuals:

> (A) Any individual owning a 50 percent or greater interest in that business entity.
>
> (B) Any individual, regardless of the extent of the individual's ownership interest in that entity, who has the power to direct or cause the direction of the management and policies of the business entity.

(Regulation 18700.1(a)(2).)

Addressing his interest in the Groff Equity Management, Regulation 18700.2(c) states that "[a]n official with a financial interest in a business entity also has an interest in a parent or subsidiary of the business entity or an otherwise related business entity […]."[4] An "otherwise related business entity" is defined as a business entity where:

> (A) The same person or persons together direct or control each business entity; or
>
> (B) The same person or persons together have a 50 percent or greater ownership interest in each business entity.

(Regulation 18700.2(c).)

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[4] This provision includes an exception that is not applicable because Councilmember Barrett's interests do not involve the interests of a shareholder or a parent corporation.

Councilmember Barrett does not have a financial interest in the Restaurant because Daniel Groff does not own 50 percent of the business, nor does he exercise discretion or control of the business as a financial partner. Thus, the Restaurant and Groff Equity Management are not "otherwise related business entities."

Foreseeability and Materiality Standards

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on an economic interest explicitly involved in the governmental decision. It states, "[a] financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official's agency." (Regulation 18701(a).)

A financial interest is the "subject of a proceeding" if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).

Relevant to these facts, Regulation 18702.2(a) states that the reasonably foreseeable financial effect of a government decision on a parcel of real property … is material whenever the government decision:

> (1) Involves the adoption of or amendment to a development plan or criteria applying to the parcel;
>
> (2) Determines the parcel's zoning or rezoning, other than a zoning decision applicable to all properties designated in that category; annexation or de-annexation; inclusion in or exclusion from any city, county, district, or local government subdivision or other boundaries, other than elective district boundaries; or
>
> (5) Involves the issuance, denial or revocation of a license, permit or other land use entitlement authorizing a specific use of or improvement to the parcel or any variance that changes the permitted use of, or restrictions placed on, the property;

(Regulation 18702.2(a).)

For financial interests not explicitly involved in a decision, if the financial effect can be recognized as a realistic possibility and is more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable. (Regulation 18701(b).) We next address the materiality standards for each official relative to each decision.

Councilmember Barett

a. Downtown Specific Plan

Regulation 18702.1 provides the materiality standards for an interest in a business entity.[5] Relevant to Councilmember Barrett's financial interest in Groff Equity Management, which is not explicitly involved in the decision, Regulation 18702.1(a)(4) states that the reasonably foreseeable effect of the decision on the official's interest in the business entity will be material if:

> The official knows or has reason to know that the entity has an interest in real property and:
>
> (A) The property is a named party in, or the subject of, the decision under Regulations 18701(a) and 18702.2(a)(1) through (6); or
>
> (B) There is clear and convincing evidence the decision would have a substantial effect on the property.

(Regulation 18702.1(a)(4).)

Councilmember Barratt knows the business has a real property ownership interest in the Groff building and the property is the subject of the Downtown Specific Plan decisions in that it will amend the development plan or criteria applying to the Groff Building's parcel. Therefore, the property is explicitly involved in the Downtown Specific Plan decision under Regulations 18701(a) and 18702.2(a)(1) and it is reasonably foreseeable that the Downtown Specific Plan decision will have a material financial effect on Councilmember Barrett's financial interest in Groff Equity Management under Regulation 18702.1(a)(4)(A). We note that the same conclusion is reached under Regulation 18702.3(a)(2)(B), regarding his interest in Daniel Groff.[6] Councilmember Barrett has disqualifying financial interests in this decision and may not take part in the decision.

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[5] It also provides the materiality standard where a business is a source of income, pursuant to Regulation 18702.3(a)(4).

[6] The above business entity materiality standard in Regulation 18702.1 is also applied to the individual as a source of income. Regulation 18702.3(a)(2)(B) states that where the source of income interest is an individual, the reasonably foreseeable effect of the decision on the source of income is material if any of the following criteria are met:

> (B) The official knows or has reason to know that the individual has an interest in a business entity that will be financially affected under the materiality standards in Regulation 18702.1.

b. Entertainment Zone

For this decision we consider the materiality standard in Regulation 18702.1(a)(1)(G), which states:

> (a) The reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a business entity is material if any of the following criteria are met:
>
> (1) Explicitly Involved. The entity is a named party in, or the subject of, the decision, including any decision in which the entity:
>
> (G) Is subject to an action taken by the agency that is directed at the entity.

(Regulation 18702.1(a)(1)(G).)

Here, the standard is met. Groff Equity Management's Restaurant tenant in its Groff Building will be one of five licensed sellers of alcohol in the City operating from properties within the Entertainment Zone that will benefit from the decision, given the Groff Building's location along High Street and within the designated Entertainment Zone. As a result, the Entertainment Zone decision is an action directed at Groff Equity Management and its property, and it is reasonably foreseeable that the Entertainment Zone decision will have a material financial effect on Groff Equity Management.

In making this determination, we also note that under the business entity standard in Regulation 18702.1(a)(4), stated further above, the Groff Building is "the subject of the decision" and the reasonably foreseeable effect of a decision is material, as it "involves … a land use entitlement authorizing a specific use of or improvement to the parcel or any variance that changes the permitted use of, or restrictions placed on, the property." (Regulation 18702.2(a)(5).

The Entertainment Zone decision would change the permitted alcohol sales for any appropriately licensed business in the Groff Building, given its location on High Street. Therefore, we advise that Councilmember Barrett has a disqualifying interest in the Entertainment Zone decision due to his financial interests and may not take part in the decision. Based on this conclusion, we need not further analyze the impact of this decision on the official's interest in Daniel Groff as a source of income.

c. *High Street Depot Lawn*

This decision would allow the consumption of alcoholic beverages on the privately owned High Street Depot Lawn when served by prospective licensed restaurants within the private Depot project during the business's operating hours. The Groff Building is located within 125 feet of the Depot Lawn, but it is not a part of the Depot project. As with the Entertainment Zone decision, City staff's intent is to increase use of the downtown area and build on the character that makes the City's downtown area unique. This may affect the nearby Groff Equity Management Building's market value, rental value, and potential income.

However, we do not further analyze the impact of this decision on the official's financial interests because the decision is "inextricably interrelated" with the Entertainment Zone decision. The facts indicate that the City intends to present this decision together with the Entertainment Zone decision, "because they deal with a similar issue of use of public spaces and consumption of alcohol, and the Depot Lawn is adjacent to the proposed Entertainment Zone on High Street." Thus, as a result of Councilmember Barrett's disqualifying interest in the Entertainment Zone, he is also prohibited from any participation in this decision. The two decisions are "inextricably interrelated" because the result of one decision will effectively determine, affirm, nullify, or alter the result of another decision. (See Regulation 18706(b), and the segmentation discussion below.)

Mayor Pro Tem Castro's Real Property Interest

a. Downtown Specific Plan

Mayor Pro Tem Castro's residential real property interest is located in the Downtown Specific Plan area, and will be subject to any changes to the Plan. Under Regulation 18702.2(a)(1), the reasonably foreseeable financial effect of a government decision on a parcel of real property is material where the decision involves the "adoption or amendment to a development plan or criteria applying to the parcel." Therefore, he has a disqualifying financial interest under Regulation 18702.2(a)(1) and may not take part in these decisions.

b. Entertainment Zone

Mayor Pro Tem Castro's residential property is located approximately 360 feet from the proposed Entertainment Zone's boundary. For an official's real property interest that is not explicitly involved but located in proximity to a parcel subject to the decision, Regulation 18702.2(a) states that the financial effect is material where it:

> (7) Involves property located 500 feet or less from the property line of the parcel unless there is clear and convincing evidence that the decision will not have any measurable impact on the official's property.

The High Street Entertainment Zone is one block around the corner from his home, and not visible. Staff recommends limiting its operating dates to the six existing City events, which currently require High Street's closure to vehicles and attract crowds to the area, and suggests that the impacts would be similar to those already experienced, but with the addition of the consumption of alcoholic beverages within the defined boundaries of the Entertainment Zone. However, the City Council could decide – now or in the future- to adopt additional days or hours of operation for the Entertainment Zone. This would affect nearby residential neighborhoods, including Mayor Pro Tem Castro's, with additional noise, privacy, and traffic impacts. Therefore, the facts do not establish that the decision will not have any measurable impact on Mayor Pro Tem Castro's property. He has a disqualifying financial interest in the Entertainment Zone decision under Regulation 18702.2(a)(7) and may not take part in this decision in any manner.

c. *High Street Depot Lawn*

Mayor Pro Tem Castro's residential property is located approximately 968 feet from the nearest edge of the Depot property and 1,187 feet from the Depot Lawn. However, we do not further analyze the impact of this decision on the official's financial interest for the reasons stated above: the City intends to present this decision together with the Entertainment Zone decision because they deal with a similar issue of use of public spaces and consumption of alcohol, in an adjacent space. Thus, as a result of Mayor Pro Tem Castro's disqualifying interest in the Entertainment Zone, he is also prohibited from any participation in this decision. The two decisions are "inextricably interrelated" because the result of one decision will effectively determine, affirm, nullify, or alter the result of another decision. (See Regulation 18706(b), and the segmentation discussion below.)

Public Generally Exception & the Downtown Specific Plan Decision

You ask whether the Public Generally Exception would permit either official to participate in the Downtown Specific Plan decision despite their disqualifying financial interests. The Public Generally Exception permits an official's participation if the official can establish that a significant segment of the public is affected, and the effect on the official's financial interest is not unique compared to the effect on the significant segment. (Regulation 18703.) However, neither official has established that a significant segment of their jurisdiction will be affected by the Downtown Specific Plan decision.[7]

Segmentation Issues & the Downtown Specific Plan Decision

You request advice on whether the Downtown Specific Plan decisions can be segmented to allow the disqualified officials to participate. Regulation 18706(a) states that an agency may segment a decision in which a public official has a financial interest to allow for the official's participation if all of the following apply:

> (1) The decision in which the official has a financial interest can be broken down into separate decisions that are not inextricably interrelated to the decision in which the official has a disqualifying financial interest;
>
> (2) The decision in which the official has a financial interest is segmented from the other decisions;
>
> (3) The decision in which the official has a financial interest is considered first and a final decision is reached by the agency without the disqualified official's participation in any way; and

[7] Under Regulation 18703, applicable to Councilmember Barrett, a "significant segment" is 25 percent of all businesses or nonprofit entities, or individuals in the official's jurisdiction. Applicable to Mayor Pro Tem Castro, a "significant segment" is 15 percent of residential real property within the official's jurisdiction.

(4) Once the decision in which the official has a financial interest has been made, the disqualified public official's participation does not result in a reopening of, or otherwise financially affect, the decision from which the official was disqualified

Decisions are "inextricably interrelated" and may not be considered separately when the resolution of one decision will effectively determine, affirm, nullify, or alter the result of the other decision. (Regulation 18706(b).)

The revisions to the Downtown Specific Plan may include changes to the allowed uses of particular properties and revised development standards and ensure that it is consistent with the 2050 General Plan. Staff anticipates that under the Downtown Specific Plan update, the Groff Equity Management Building's parcel, along with other parcels in this area, will be rezoned from Mixed Use Medium to High Street Mixed Use. The degree of potential changes to applicable development zoning standards will depend on the contents of the draft update plan and the public hearing process.

As more fully analyzed above, Councilmember Barrett will have a financial interest in Downtown Specific Plan decisions and is generally disqualified from taking part in any decisions involving the development plan or criteria for the Groff Building, located in the Downtown Specific Plan area. Mayor Pro Tem Castro's is also generally disqualified from taking part in any decisions involving the development plan or criteria for his residential real property interest located in the Downtown Specific Plan area. To the extent final decisions can be reached regarding the development plan and criteria applicable to the officials' financial interests, it may be possible to segment subsequent decisions. However, this would depend on the specifics of the subsequent decisions, as the officials remain disqualified if it is reasonably foreseeable that those decisions will have a material financial effect on their interests. Moreover, the mere fact that a decision is limited to property more than 1,000 feet from the official does not determinatively establish if a decision will or will not have a financial effect on the official's interest. Thus, we recommend you seek further advice regarding segmentation once the City can identify the subsequent decisions.

If you have other questions on this matter, please contact me at KHarrison@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

L. Karen Harrison

By: L. Karen Harrison
Senior Counsel, Legal Division

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