

Agenda Report

TO: CITY COUNCIL

DATE: AUGUST 4, 2008

FROM: CITY MANAGER

SUBJECT: APPEAL OF CONDITIONAL USE PERMIT #4924, 96 – 98 E.
COLORADO BLVD (HOOTERS RESTAURANT)

RECOMMENDATION:

It is recommended that the City Council:

1. Acknowledge that this action is categorically exempt from CEQA; and
2. Disapprove the appeal of Conditional Use Permit #4924: To allow the sale of a full-line of alcoholic beverages for on-site consumption in conjunction with the operation of an existing restaurant (Hooters), an upgrade from the existing sale of beer and wine only.

BACKGROUND:

The appellant, Odyssey Development Services, submitted a Conditional Use Permit to allow the sale of full-line alcoholic beverages for on-site consumption in conjunction with the operation of an existing restaurant. The restaurant, Hooters, currently has a license for the sale of beer and wine only. The original permit for beer and wine was approved in 2000 and an expansion of the restaurant was approved in 2004.

The Hearing Officer approved the application, as recommended by staff, at the November 7, 2007 public hearing. Day-One, a community group who was in opposition to the request, appealed the decision to the Board of Zoning Appeals on November 16, 2007. On December 3, 2007, the City Council voted to call this case up for review to the Board of Zoning Appeals. Subsequently, Day One withdrew its appeal application.

During the review of the appeal and analysis of additional information, staff's recommendation for the Conditional Use Permit to the Board of Zoning Appeals was changed to disapproval. The Board of Zoning Appeals disapproved the application at the June 18, 2008 public hearing. The appellant filed the appeal of the Board of Zoning Appeals' decision on June 30, 2008.

ANALYSIS

Conditional Use Permit to allow the sale of full line alcoholic beverages.

The existing use, Hooters, although defined as a restaurant under the City's current Zoning Code, operates differently from other restaurants. The City's Zoning Code defines "Restaurants" as an establishment that sells prepared food or beverages either indoors or outdoors in non-disposable containers. With a bona fide restaurant use, the sale of alcohol is incidental to the sale of food. Although the use falls under the definition of a restaurant, the facility has the appearance of a bar or a sports bar. As one enters the restaurant, banners advertising alcoholic beverages decorate the entire dining room and bar area. The uniform of the waitresses are not those found in a typical restaurant and the calendar displaying the uniformed waitresses are sold along with other merchandise. Additionally, televisions are located throughout the entire restaurant. After fully evaluating the proposal to increase the sale of alcohol from beer and wine only to full alcohol, staff finds that this will further intensify the disparity between a typical restaurant use and the subject restaurant.

The property is located in an Alcohol Density Overlay District (CD-1/AD-1) intended to reduce the negative impacts resulting from an over-concentration of alcohol sales. The Zoning Code requires new nightclubs, bars, taverns, billiard parlors with alcohol services, and off-site sales of alcohol within the Alcohol Density Overlay District to be located a minimum distance of 250 feet from an existing nightclub, bar, tavern, billiard parlor, and/or off-site sales of alcohol. The Alcohol Overlay District was created in response to problems in the area associated with alcohol sales. The intent of the Alcohol Density Overlay District is to prevent public nuisances associated with alcohol services, such as loitering, public drunkenness, public urination, noise. Although, the existing use is not technically a bar or tavern, the upgrade to a full-line of alcoholic beverages at a business that operates like a sports bar, has the potential to increase the negative impacts associated with alcohol sales. This is inconsistent with the intent of the Alcohol Density Overlay District.

The Police Department has found that establishments with full alcohol sales have a significantly higher number of police calls than those with licenses for beer and wine only. Three of the five establishments within the one-block radius have licenses to sell a full-line of alcoholic beverages for on-site consumption. If the requested application is approved, there will be a total of four establishments selling a full line of alcoholic beverages for on-site consumption within a one-block radius. Based upon Police Department findings, it is probable that this will exacerbate the over-concentration problems in the area.

It is Staff's opinion that the findings for approval of the Conditional Use Permit to allow the sale of a full-line of alcoholic beverages for on-site consumption in conjunction with the operation of the subject restaurant cannot be made. Staff recommends disapproval of the Conditional Use Permit based on the findings in Attachment A.

Police Department Recommendation for Disapproval

According to the Police Department, locations with full alcohol license require more calls for service than those with limited beer and wine licenses. The attached memo (Attachment E) by the Police Department indicates that the ratio of calls at establishments with full alcohol license is 2.6 times more frequent than at establishments with beer and wine license. Based upon the Police Department findings, granting the Hooter's CUP will result in more police responses to this area, impacting the ability to provide policing services at optimum levels to other areas of the city. Of all the calls for services in the City, 27 percent of the calls are from Old Pasadena.

The geographic area where Hooter's Restaurant is located (Fair Oaks Ave., Union St., Arroyo Parkway, Colorado Blvd.) possess a high concentration of police calls for service that are directly related to alcohol use. Within Old Pasadena, this area surrounding the Hooter's Restaurant receives 61 percent of police calls. Staff believes that allowing the requested alteration to the Hooter's CUP will further exacerbate this problem.

June 18, 2008 Board of Zoning Appeals Meeting

At the Board of Zoning Appeals meeting, four members of the public spoke in opposition to the request, while one member of the public spoke in favor of the request. Those in opposition felt that the Old Pasadena is over saturated with alcohol sales and that the approval of another full-line alcoholic beverage license would have a negative impact on the surrounding area and would increase police calls for service. The member of the public in favor felt the use would still continue to operate as a restaurant and would have a positive impact in Old Pasadena.

ENVIRONMENTAL REVIEW

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15301, Class 1, Existing Facilities). This section specifically applies to small additions, expansions or alterations to existing structures where there is negligible or no expansion of the use.

Although the applicant has appealed the environmental determination, Staff maintains that the project is exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act. An appeal of the environmental determination is a de novo hearing of the application.

FISCAL IMPACT:


The project is recommended for disapproval and would have no fiscal impact on services. However, if approved, the project may also have the potential to increase police calls for service in Old Pasadena, which may have a negative fiscal impact on public safety.

Respectfully submitted,



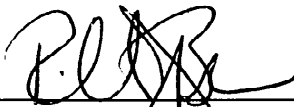
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Prepared by:



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Approved by:



Richard J. Bruckner
Director of Planning and Development

Concurred by:



Eric R. Mills, Commander
Strategic Services Division

Attachments:

- A. July 28, 2008 recommended City Council Specific Findings for Disapproval
- B. June 20, 2008 Board of Zoning Appeal Decision Letter and Specific Findings for Disapproval
- C. February 20, 2008 Board of Zoning Appeal staff report
- D. Existing and Proposed Floor Plan
- E. Police Department Memorandum – July 24, 2008.