

ATTACHMENT G

CORRESPONDENCE FROM HEARING OFFICER MEETING

**NOTE: SOME CORRESPONDENCE IN THIS SECTION WAS RECEIVED PRIOR TO
THE APPLICANT MODIFYING THE SCOPE OF THE ENTITLEMENT REQUEST**

CORPORATE OFFICES

January 8, 2008

Mr. Jason Mikaelian
Current Planning Division
Planning and Development Department
175 N. Garfield Avenue
Pasadena, California
91101

Re: **Expressive Use Permit # 4955**

Dear Mr. Mikaelian,

As a property owner of two buildings on Raymond Avenue, we are writing in support of your findings with regard to the Expressive Use permit application #4955 at 61 N. Raymond.

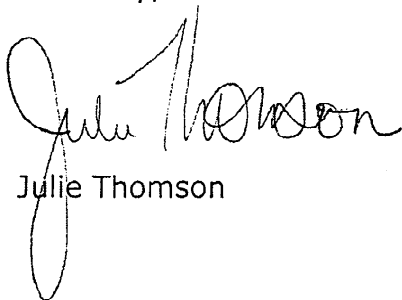
Vive's conditional use permit from the City of Pasadena allows them to operate as a restaurant. However, we agree with your finding that Vive operates more like a night club than it does a restaurant with the dance floor where it is currently located. This is documented on its web site in the photo gallery and in its 90 second commercial at www.vivelounge.com. It is further evidenced in its Myspace video advertisement and its Utube video advertisement where they have filmed the entire place filled with Salsa Dancing, by the fact that they charge a cover charge on Sunday nights and by the line that forms outside on the weekends with people waiting to get in to dance and drink. Based on these photos and videos we agree with your conclusion that by allowing the dance floor to exist in the center of the restaurant, it becomes difficult, if not impossible, to conform to the general requirements of operating as a restaurant.

You refer to the Alcohol Density Overlay requirements that would need to be met if they were to be considered a night club. Unfortunately, they would not be able to meet those requirements as the Old Town Pub, Mc Murphy's

and Vertical are all within the 250 feet restriction found in the City's code. Therefore, in order for Vive to qualify as a nightclub, the City would have to make an exception for them. And further, as you know, Vive is operating with an Alcohol Beverage Control (ABC) type 47 liquor license, which allows for an on-sale, general eating establishment. Accordingly, they must have substantial sales of meals which the ABC defines as at least 50% of their revenue coming from the sale of food. Additionally, Vive applied for and received a permit for sidewalk dining which is only allowed with either a type 47 liquor license or a type 41 liquor license (on-sale beer and wine eating establishment).

If you have any questions regarding our comments, you can reach me at (626) 795-9788 or by email at jt@valhallapix.com.

Sincerely,

A handwritten signature in cursive script that reads "Julie Thomson". The signature is written in black ink and is positioned above the printed name.

Julie Thomson

**ONE COLORADO***Old Pasadena*

January 8, 2008

VIA FACSIMILE 626-396-7814 & EMAIL jmikaelian@cityofpasadena.net

Jason Mikaelian, AICP
Senior Planner
Planning and Development Dept.
City of Pasadena
175 N. Garfield Ave. (Hale Building)
Pasadena, Calif. 91101-1704

RE: **EXPRESSIVE USE PERMIT #4955**
61 North Raymond Avenue, 53 E. Union Street

Dear Jason:

I represent the property owner of One Colorado which is the 275,000 square foot property representing a city block bounded by Union, Delacey, Colorado and Fair Oaks. We also own and operate the parking garage located at 30 E. Union Street, which is on a partial block bounded by Union, Fair Oaks, Exchange Alley and Kendall Alley.

We strongly oppose the four items being requested by the operators of Vive at 61 North Raymond Avenue, specifically the relocation and expansion of their existing dance floor; the expansion of full alcohol sales to include 53 E. Union Street; the modification of their CUP to extend the hours to 1:30 AM; and the addition of a banquet room.

As mentioned, we own and operate the parking garage at 30 East Union Street and provide pay-parking for many of the club-goers that patronize Vive especially on Friday, Saturday and Sunday nights (which are their main hours of operation).

Unfortunately since the location at 61 North Fair Oaks changed hands from a genuine full-service restaurant to a bar/night club-style venue with some food, we've experienced so many problems with drunk patrons that we were forced to implement a \$15 special fee to all visitors entering our garage after 10pm for Friday through Sundays to help offset the cost of beefing up security staff late at night and to help pay for the increased janitorial coverage to clean up the mess left behind by many of Vive's customers.

Over the past year the problems have accelerated.

As the police report notes, "police calls for service for the restaurant increased substantially over the past year, from 13 calls for service in 2005 and 11 in 2006 to 38 in 2007 ... The number of arrests have also increased from one each in 2005 and 2006 to seven in 2007 (through October 29, 2007)."

Granting the items being requested by Vive will only, in our opinion, make a bad situation even worse, and will as, City staff has noted in their report, effectively turn Vive into a full bar and nightclub contrary to the requirements of the Alcohol Overlay District, exacerbating the problems that already exist in the area.

We feel that granting this application will detrimentally affect our property and will in addition be detrimental to the area as a whole.

Therefore, we strongly urge DISAPPROVAL of all items being requested by Vive.

Please feel free to contact me with any questions.

Sincerely,

ONE COLORADO

Sally Lunetta
Vice President
Real Estate
One Colorado Investments I.I.C.
24 East Union Street
Pasadena, California 91103
626 564-1066 • fax 626 564-8441

THE KUTZER COMPANY

716 MISSION STREET
SOUTH PASADENA / CA / 91030
PHONE: 626 / 441-9620
FAX: 626 / 799-5670
WWW.KUTZER.COM

Via E-Mail

January 10, 2008

Mr. Jason Mikaelian
City of Pasadena
E-Mail Address: jmikaelian@cityofpasadena.net

Re: Vive Restaurant – Expressive Use Permit

Dear Mr. Mikaelian:

This letter is to express my viewpoint, as both a property owner / landlord and property manager for several properties in the Old Pasadena area, regarding the Vive Restaurant application for an Expressive Use Permit. While we support the need for the businesses in Old Pasadena to grow and expand, I believe that it would be detrimental to the neighboring businesses to have the Permit application approved for Vive Restaurant.

We have worked hard, as owners, landlords, and tenants, to create a safe and welcoming environment for visitors and customers in the Old Pasadena area. This has been partly a result of the landlords working together to be sure that their tenants will be a “good fit” with the surrounding businesses. In addition, the City and the owners have worked to cut down on business practices and uses that may cause people visiting the area to feel unsafe. The increase in police responses and arrests at their business is a great concern to many of us. We believe that allowing Vive Restaurant an expanded use will negatively affect the progress that has been made to create a clean, safe and welcoming environment in Old Pasadena.

I appreciate your taking this opinion into consideration when making a decision regarding Vive Restaurant’s application. Please feel free to contact me if you have any questions.
Thank you.

Sincerely,



Pete Kutzer
President

January 10 2008

Jason C. Mikaelian
Current Planning Div. Planning and Development Dept.
175 N Garfield Ave., Pasadena, CA 91109

RE: 61 N Raymond Ave. and 53 E. Union Street Expressive Use Permit #4955

I am a homeowner and resident at 80 N Raymond Avenue and I ask that the Expressive use permit #4955 and modification to the conditional use permit be denied.

The proposed changes to the expressive use of this property as a bar rather than a restaurant concerns me. Allowing full liquor service, late night operation and dancing on weekdays concerns me further. There are currently no other bars or dance clubs on N Raymond. I believe this project is inconsistent with the neighborhood will negatively effect my quality of life and my property value. I am further concerned that if this is allowed, it will set a precedent for other proposed drinking and dancing establishments. Finally, the proposed hours of operation on weekdays are not consistent with other businesses on N Raymond. The loud late night music from Vive on the weekends can be easily heard from our building and can be disruptive from time to time. Allowing Vive to operate until 1:30 am on weekdays will constitute an ongoing disruption and will most certainly negatively effect my quality of life.

What I am trying to avoid is the type of activity that occurred at "Nonya" (the previous establishment at 61 N Raymond Ave.) Nonya operated as a dance club on weekends and was extremely detrimental to our neighborhood. The music was very loud and there was often drunken behavior and fights directly in front of the establishment as well as our building. The City of Pasadena Police Department came out on numerous occasions to attend to these problems and even went so far as to assign a special officer specifically to the problem.

There are plenty of full liquor drinking establishments on Colorado Blvd. and the surrounding area. It is neither a "necessity or a convenience" for a full liquor bar and dance club to exist at 61 N Raymond or anywhere on N Raymond Ave.

Respectfully,

R Will Sera
80 N Raymond Ave.

DayOne Board of Directors

Teresa Acosta
Field Representative
Senator Jack Scott

Mike Babcock
PUSD, School Board

Alfred Clark III
Attorney
Lord, Bissell, & Brook LLP

Jarvis Emerson
Executive Director
Jackie Robinson Center

Mike Horner
President
Tom Sawyer Camps

Carol Laval
Executive Director
Young and Healthy

Joy Guihama, MPH, CHE
Division Manager
Pasadena Public Health Dept.

Fran Neumann
Founding Executive Director
Day One Inc.

Richard Pallay
Community Activist

Lt. Darryl Qualls
Lieutenant
Pasadena Police Dept.

Randy Renick Esq.
Attorney
Law Offices of Randy Renick

Natalie Salazar
Director Community Programs
LA County Sheriff's Dept.

Del Yarbrough
Community Activist
Retired PUSD Principal

DayOne Staff

Christy Zamani
Executive Director

Wesley Reutimann
Director of Community Programs

Seema Satourian
Administrative/ Project Assistant

Shawntel Phypps
Administrative/ Project Assistant

February 20, 2008

Jason C. Mikaelian, AICP
Senior Planner
Planning and Development Department
City of Pasadena

RE: EUP #4955 (Vive)

With twenty years of experience dealing with alcohol-related issues, Day One has witnessed a consistent pattern of increases in alcohol-induced problems when the expansion of drinking establishments in any one area is permitted to go unchecked. Fortunately, a number of concerned citizens, business owners, city staff and local agencies recognized this a decade ago in coming together to develop an Alcohol Overlay District for Old Pasadena. Unfortunately, the efficacy of this ordinance is increasingly being undermined by restaurants where the culinary experience is taking a back seat to alcohol sales.

Over the past few years, Vive has proven to be the most egregious example of restaurant-turned-bar/nightclub trend. Not only have Vive's proprietors failed to follow legal guidelines in altering the size of their dance floor, they have created a legitimate public nuisance insofar as their changes in business practices have placed additional strain on police and public services in Old Pasadena. Indeed, over the past year alone, the number of police calls made for Vive increased over *three-fold*, from 11 in 2006 to 38 in 2007. Not surprisingly, this increase correlated with the unauthorized change in Vive's dance space and general shift away from its "restaurant" designation.

By any measure, rewarding a proprietor whose limited operations have already proven a nuisance with extended hours of operation, 7,000sq feet of full-alcohol service, live entertainment *and* dancing would be detrimental to the best interests of Old Pasadena, not to mention make a mockery of the intent of the Alcohol Overlay District by allowing a "restaurant" to transform into a nightclub.

It is my sincere hope that the Planning Commission will recognize these issues and the concerns raised by City Staff and the Pasadena Police Department in denying Expressive Use Permit #4955. If you have any comments or questions regarding Day One's stance, I can be reached at (626) 229-9750, or at Christy@dayonepasadena.com.

Sincerely,



Christy Zamani
Executive Director



From: mellinkoff@gmail.com [mailto:mellinkoff@gmail.com]
Sent: Monday, February 25, 2008 10:31 PM
To: Mikaelian, Jason
Cc: Dan Mellinkoff; Sally Lunetta; James Plotkin; dan Mellinkoff (office)
Subject: Re: Vive Item...

Thanks, Jason.

In both reports you noted that "one of the existing conditions of approval is that the use operate as a bonafide eating establishment at all times and the sale of alcohol and presence of live entertainment is to be subsidiary to the sale of food." If that is true, and Vive has been operating as a de facto nightclub for sometime (with or without the requested approval), haven't they then been in violation of their existing conditions of approval?

In the eyes of many, Vive has been operating as a de facto night club for some time: lines around the block, with a rope to keep people out; Salsa Dancing advertised on their web site for certain days of the week; placards with a radio station's ID plastered on the storefront, etc., etc. This is not to mention the public drunkenness, fights, etc. According to One Colorado, largely because of Vive, they have had to add an extra charge to their late night garage users due to all the problems.

Is Vive a restaurant now, or a nightclub, even without the CUP they are requesting?

I think that is the essence of your report - reading between the lines.

One comment I heard from another property owner (who was somewhat sympathetic to Vive) was that staff had misinterpreted the police reports. Do you have copies of the actual incident reports? If so I would appreciate seeing that as well.

Yours,

Dan Mellinkoff

From: Dan Mellinkoff [mailto:mellinkoff@gmail.com]
Sent: Monday, February 25, 2008 8:50 PM
To: Sally Lunetta; Mikaelian, Jason
Cc: Dan Mellinkoff; James Plotkin
Subject: Re: Vive Item...

Hi Jason,

Can you confirm that the date of the Vive hearing is next Wednesday, March 5, 2008? Will it be the first item of the evening, or last under "old business?" As always, it's difficult for those who want to go to attend a hearing to plan, and then re-plan their schedules only to discover at the last possible moment that it has been continued. Since the hearing can't technically be continued until the date of the hearing, that forces some of us to show up only to leave after five minutes when it is canceled. But I don't mean to complain.

Sally mentioned that the applicant had changed some items in their original application that resulted in the current staff report. Could you summarize the main points of the changes? To my uneducated eye your response letter seemed essentially unchanged from previously, so I'd like if possible to understand the nuances of the changes you had to respond to.

If possible could you forward a copy of the latest application from Vive?

I know it's hard to venture a guess, but what are the chances that the item will be continued again?

Thanks in advance!

Yours,

Dan Mellinkoff

DayOne Board of Directors

Teresa Acosta
Field Representative
Senator Jack Scott

Mike Babcock
PUSD, School Board

Alfred Clark III
Attorney
Lord, Bissell, & Brook LLP

Jarvis Emerson
Executive Director
Jackie Robinson Center

Mike Horner
President
Tom Sawyer Camps

Carol Laxval
Executive Director
Young and Healthy

Joy Guithama, MPH, CHIE
Division Manager
Pasadena Public Health Dept.

Fran Neumann
Founding Executive Director
Day One Inc.

Richard Pallay
Community Activist

Lt. Darryl Qualls
Lieutenant
Pasadena Police Dept.

Randy Renick Esq.
Attorney
Law Offices of Randy Renick

Natalie Salazar
Director Community Programs
LA County Sheriff's Dept.

Del Yarbrough
Community Activist
Retired PUSD Principal

DayOne Staff

Christy Zamani
Executive Director

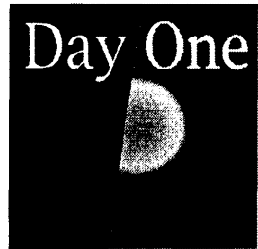
Wesley Reutimann
Director of Community Programs

Seema Satourian
Administrative/ Project Assistant

Shawntel Phypps
Administrative/ Project Assistant

March 3, 2008

Jason C. Mikaelian, AICP
Senior Planner
Planning and Development Department
City of Pasadena



RE: EUP #4955, CUP #2051 (Vive)

Over the past few years, Vive has proven to be the most egregious example of restaurant-turned-bar/nightclub in Old Pasadena. Not only have Vive's proprietors failed to follow planning guidelines in altering the size of their dance floor, they have created a legitimate public nuisance insofar as their changes in business practices have resulted in a *three-fold* increase in the number of police calls made to this address, from 11 in 2006 to 38 in 2007. Not surprisingly, this increase correlated with the unauthorized change in Vive's dance space and general shift away from its "restaurant" designation.

By any measure, rewarding a proprietor whose current operations have already proven to be a public nuisance would be imprudent at this time. Indeed, extending Vive's hours of operation to allow for alcohol sales until 1:30am would add *eleven* additional hours of alcohol service during a period of time – 11pm-1:30am – when dining is traditionally secondary to the consumption of alcohol, and the majority of alcohol-related incidents occur. This alone would allow a restaurant that already acts more like a nightclub – given its cover charges, dancing, and queues out front – to undermine the intent of the Alcohol Overlay District, and exacerbate the existing alcohol-related problems and over-concentration of alcohol retailers in the district.

Furthermore, the request to relocate the dance floor to the center of the establishment, if granted, would similarly result in an additional step away from the property's current designation as a restaurant. By placing the dance floor center stage and near the entrance, Vive seeks to highlight a use that relegates late dining to an afterthought. This development would be a departure from similar Old Pasadena restaurants that incorporate dancing (e.g. Villa Sorriso), as the dance floors in these establishments are not placed squarely in the middle of the dining area.

It is my sincere hope that the Planning Commission will note the issues raised by concerned citizens, City Staff, the Pasadena Police Department, and local agencies like Day One in denying EUP #4955 and CUP #2051. If you have any comments or questions regarding the aforementioned, I can be reached at (626) 229-9750, or at Christy@dayonepasadena.com.

Sincerely,

Christy Zamani
Executive Director

From: mic hansen [mailto:hansmic@earthlink.net]
Sent: Wednesday, March 05, 2008 3:10 PM
To: Mikaelian, Jason
Cc: Suzuki, Takako
Subject: Vive Restaurant hearing

Mr. Mikaelian,

I am writing as a concerned long-term resident of West Pasadena in support of the staff recommendation for the Vive Restaurant hearing this evening. I respectfully request immediate enforcement of the existing codes and declination for the extension of alcohol sales from 1 a.m. to 1:30 a.m.

Thank you.
M. Hansen

From: marsha rood [mailto:marsharood@earthlink.net]

Sent: Wednesday, March 05, 2008 3:36 PM

To: Mikaelian, Jason

Cc: Miller, Denver

Subject: RE: Vive Restaurant CAO hearing

Dear Mr. Melekian -

I am writing in support of the staff recommendation for the Vive Restaurant CUP hearing this evening. Raymond Avenue is the residential core of Old Pasadena and will have even more housing after the Raymond Theater project has been completed. Unlike some area of Los Angeles, Old Pasadena is not solely an entertainment district; rather, it is a mixed use district where each use needs to respect adjacent uses. Old Pasadena is a Central Community District in which Pasadena residents live, work, recreate and otherwise go about their daily activities. Granting the CUP to the Vive Restaurant for enhanced entertainment activities, particularly in the early morning hours, will seriously and negatively impact nearby residents who live in the area and lead to deterioration in the general environment of Old Pasadena.

Thank you for your consideration.

Marsha Rood
216 S. Madison Avenue, #302
Pasadena, CA 91101

From: Ernest Algorri [mailto:ernie@daalaw.com]

Sent: Monday, April 07, 2008 3:54 PM

To: Mikaelian, Jason

Subject: application of Vive

Mr. Mikaelian:

I will not be able to attend the hearing on the appeal by Vive, but please pass along my objection to their expansion in all respects. I not only work at and own the building at 25 E. Union, but I also live across the street from Vive at 80 N. Raymond.

Vive is a noisy mess and attracted the wrong crowd. People are always drunk outside, litter is left in front of my condo from the people who park nearby and there is always noisy arguments in the middle of the night.

I know all this because my balcony overlooks that dump.

Please take the considerations of Vive's neighbors into account when weighing their demands for expansion and an increase in the length of their alcohol serving hours.

Thank you for listening to me.

ERNEST P. ALGORRI, ESQ.
DeWITT . ALGORRI . ALGORRI, Lawyers
DeWitt & Algorri Bldg.

April 21, 2008

Jason C. Mikaelian
Current Planning Div. Planning and Development Dept.
175 N Garfield Ave., Pasadena, CA 91109

RE: 61 N Raymond Ave. Appeal of Expressive Use Permit #4955

I am a homeowner and resident at 80 N Raymond Avenue and ask that my comments regarding this issue be considered.

Extended Hours

From my observations, applicant's primary line of business is as a night/dance club. The majority of the patrons that come to Vive come to drink and to dance. Therefore it is reasonable to assume that the requested change of operating hours is to serve this clientele. Closing time at any drinking and dancing establishment causes consistent occurrences of noise and aberrant behavior, and Vive is no exception. I and my neighbors have been disturbed on a regular basis by rowdy patrons leaving Vive on Friday and Saturday nights as they head home, to other clubs or to wait in the Valet queue directly across the street from our building. Extending the operating hours to 1:30 am every night of the week will provide the opportunity for many, many more of these disturbances. Allowing this and the precedent it sets will negatively affect my and my neighbor's quality of life and property values. When one lives in a vibrant urban environment such as Old Town, one expects a certain amount of after hours "street life" but the requested extended hours of operation are not consistent with other establishments on N Raymond or with what is reasonable in a mixed use neighborhood such as ours. I strongly request that this be denied.

Relocation of the Dance Floor

I have no problem with where the current dance floor is located and in the interest of good neighborly relations I ask that this be granted.

Expansion

In the original application the applicant requested expansion of the facility. Given the fact that the Vive's primary line of business is as a night/dance club that would mean more people coming and going and therefore more opportunities for aberrant behavior and disturbance. Furthermore, amending the use of the space at 53 E Union to allow an expanded Vive or any future drinking and dancing establishments is a concern. I strongly request that this request be denied.

In conclusion, there are plenty of full liquor drinking and dancing establishments in the surrounding area. It is neither a "necessity or a convenience" for any establishment at 53 E Union, 61 N Raymond or anywhere on N Raymond Ave. to operate until 1:30 am Monday through Friday or for Vive to expand it's facility.

Respectfully,

R Will Sera
80 N Raymond Ave.