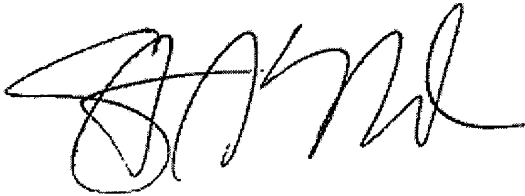


Jomsky, Mark

From: Jana Karibyan <janakaribyan@quinnemanuel.com>
Sent: Wednesday, August 24, 2011 5:05 PM
To: Jomsky, Mark
Cc: Suzuki, Takako; Vanessa Velez

Please agendize for review for call-up CUP PLN#2010-00247, full alcohol license for a restaurant at the old Hooters location at 96 East Colorado in District 6. If any further information is needed, please advise.



Steven G. Madison
Quinn Emanuel Urquhart & Sullivan, LLP

865 S. Figueroa St 10th Floor
Los Angeles, Ca 90017
213-443-3045 Direct
213.443.3000 Main Office Number
213.443.3100 FAX
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Web: www.quinnemanuel.com

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09/19/2011
Item 15

~~**09/12/2011**~~

~~**Item 24**~~



PLANNING DEPARTMENT
PLANNING DIVISION

August 19, 2011

Bedros Darkjian
2411 Foothill Boulevard
Pasadena, CA 91010

**Subject: Conditional Use Permit #5471
96 East Colorado Boulevard
Council District #6**

PLN#2010-00247

Dear Mr. Darkjian:

Your application for a **Conditional Use Permit** at **96 East Colorado Boulevard** was considered by the **Hearing Officer** on **August 17, 2011**.

CONDITIONAL USE PERMIT: To allow the sale of full alcohol (beer, wine, and distilled spirits) in conjunction with food service at an existing restaurant (Choza Momma). Currently the restaurant is permitted to have limited alcohol sales (beer and wine). The restaurant is located in the CD-1/AD-1 zoning district. There are no other proposed changes to the restaurant.

After careful consideration of this application, and with full knowledge of the property and vicinity, the Hearing Officer made the findings as shown on Attachment A to this letter.

Based upon these findings, it was decided by the Hearing Officer that the **Conditional Use Permit** be **approved** with conditions listed in Attachment B and in accordance with submitted plans stamped **August 17, 2011**.

In accordance with Section 17.64.040 of the Pasadena Municipal Code, the exercise of the right granted under this application must be commenced within two years of the effective date of the approval, unless otherwise specified in the conditions of approval. The Planning Director can grant a one-year extension of your approval. Such a request and the appropriate fee must be received before the expiration date. The right granted by this approval may be revoked if the entitlement is exercised contrary to the conditions of approval or if it is exercised in violation of the Zoning Code.

You are advised that an application for a building permit is not sufficient to vest the rights granted by this approval. The building permit must be issued and construction diligently pursued to completion prior to the expiration of this approval. It should be noted that the time

frame within which judicial review of the decision must be sought is governed by California Code of Civil Procedures, Section 1094.6.

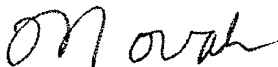
You are hereby notified that, pursuant to Pasadena Municipal Code Chapter 17.72, any person affected or aggrieved by the decision of the Hearing Officer has the right to appeal this decision within **ten days (August 29, 2011)**. The effective date of this case will be **August 30, 2011**. Prior to such effective date, a member of the City Council or Planning Commission may request that it be called for review to the Board of Zoning Appeals. However, if there is a request for a call for review, the appeal period will continue to run. If the tenth day falls on a day when City offices are closed, the appeal deadline shall be extended through the next day when offices are open. The decision becomes effective on the eleventh day from the date of the decision. The regular Appeal fee is \$3,026.14. The Appeal fee for Non-profit Community-based Organizations pre-registered with Neighborhood Connections is \$1,513.07.

Any permits necessary may be issued to you by the Building Division on or after the effective date stated above. A building permit application may be submitted before the appeal deadline has expired with the understanding that should an appeal be filed, your application may, at your expense, be required to be revised to comply with the decision on the appeal. **You should call the Current Planning office at 626-744-6777 to find out if any appeal or call for review has been filed before you submit your building permit application.** A copy of this decision letter (including conditions of approval and any mitigation monitoring program) shall be incorporated into the plans submitted for building permits.

The Hearing Officer adopted the environmental determination that this project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Title 14, Chapter 3, Section 15301, Class 1, Existing Facilities). Class 1 exempts projects that involve negligible or no expansion of an existing building. The addition of full alcohol sales (beer, wine, and spirits) in conjunction with an existing restaurant is considered a negligible expansion to the existing building. No new square footage is proposed to the existing tenant space. A restaurant use is a permitted use in the CD-1/AD-1 zoning district.

For further information regarding this case please contact **Jacqueline Ellis at (626) 744-6709.**

Sincerely,



Paul Novak
Hearing Officer

Enclosures: Attachment A, Attachment B, Attachment C (site map)

xc: City Clerk, City Council, Building Division, Public Works, Power Division, Water Division, Design and Historic Preservation, Hearing Officer, Code Enforcement-Jon Pollard, Case File, Decision Letter File, Planning Commission (9)

ATTACHMENT A
SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #5471

Approval of Conditional Use Permit: To Allow the Sale of Beer, Wine and Spirits for On-Site Consumption in conjunction with an existing Restaurant Use.

1. *The proposed location of the site for the Conditional Use Permit would not adversely affect the general welfare of the surrounding property owners.* The operation of an existing restaurant use with full alcohol sales (beer, wine, and distilled spirits) is consistent with the activity of the neighboring uses in the vicinity. The subject site is located within the Central District commercial core and is identified as a retail/entertainment destination with a variety of restaurants, retail, and commercial office uses. The restaurant use is permitted within CD-1 zoning district. The proposed use will be conducted in accordance with the City's laws and ordinances ensuring continued compatibility and protecting other businesses in the area from adverse impacts.
2. *The proposed location of the site for the Conditional Use Permit would not result in an undesirable concentration of premises for the sale of alcoholic beverages, including beer and wine, in the area.* The proposed on-site sale of full alcoholic beverages is to upgrade an existing beer and wine license at the subject restaurant. The number of alcohol establishments will not increase as a result of the approval of this Conditional Use Permit application. Alcohol will be sold on-site incidental to food service. It has been found that the sale of alcoholic beverages in conjunction with a bona fide eating establishment typically would not encourage activities that negatively affect the surrounding area
3. *The proposed location of the site for the Conditional Use Permit would not detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with respect to the following: i. Residential uses and residential districts; ii. Hospitals, park and recreation facilities, places of public assembly, public or private schools, and religious assembly uses that attract minors and other similar uses; and iii. Other establishments offering alcoholic beverages (including beer and wine) for sale for consumption both on- and off-site in that there are residential and religious assembly uses within 500 feet of the subject site; however, given the urbanized location and mix of residential, commercial, retail, and entertainment uses in the Central District, a restaurant use with incidental sale of alcoholic beverages at this location will not be detrimental to the uses in the area.*
4. *The proposed location of the site for the Conditional Use Permit would not aggravate existing problems created by the sale of alcohol (e.g., littering, loitering, noise, public drunkenness, and sales to minors).* The subject restaurant has operated at the subject location without documented violations of any City Ordinance. With conditions, the approval of the Conditional Use Permit for the proposed on-site sale of a full alcoholic (beer, wine and distilled spirits) beverages at the premises will not aggravate existing problems in the vicinity. The Police Department supports the application as proposed. With this approval, the project is subject to the City's Condition/Mitigation Monitoring Program. Noncompliance with any of the conditions of approval or any of the provisions of the Zoning Code may result in the revocation of the Conditional Use Permit.

5. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.* The project is consistent with Objective 10, Diverse Economy, of the Land Use Element of the General Plan in that the restaurant will allow for the increase of tax revenue with increased employment opportunities inherent in a restaurant business. Similarly, one of the purposes of the Central District Specific Plan is to provide a mix of land uses designed to create the primary business, financial, retailing, and government center of the City. The proposed use is compatible with the urban character of Old Pasadena, and therefore is in conformance with the goals of the General Plan.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #5471

The applicant or successor in interest shall meet the following conditions:

General

1. The site/floor plans submitted for building permits and/or future development shall substantially conform to the site/floor plans stamped "Received at Hearing, August 17, 2011," except as modified herein.
2. The approval of this application authorizes the on-site sale of full alcohol (beer, wine and distilled spirits) in conjunction with the operation of a 3,496 square foot restaurant with outdoor patio a 96 square foot patio and a 500 square foot basement. No alcohol sales or alcohol consumption by customers in the basement shall be permitted.
3. No sale of alcohol for off-site consumption is permitted.
4. The conditions of approval of this Conditional Use Permit hereby supersede the conditions of CUP #3667 approved on March 31, 2000, and CUP #4257 approved on January 26, 2004.
5. The Zoning Administrator, at any time, can call for a review of the approved conditions at a duly noticed public hearing. These conditions may be modified or new conditions added to reduce any impacts of the use. The Hearing Officer may revoke the Conditional Use Permit if sufficient cause is given.
6. Any change to these conditions of approval or expansion of the use shall require the modification of this Conditional Use Permit or a new Conditional Use Permit.
7. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments and Divisions.
8. The decision letter and conditions of approval shall be incorporated in the building plans as part of the building plan check process.
9. The proposed project, Activity Number **PLN2010-00247** is subject to a Final Zoning Inspection. A Final Zoning Inspection is required for the project prior to the issuance of a Certificate of Occupancy. In addition, the project requires Condition Mitigation Monitoring. Contact the Planning Case Manager, Jacqueline Ellis at 626-744-6709 to schedule an inspection appointment time.

Planning Division

10. The bar area shall not exceed 262 square feet. If the bakery display area and related equipment are removed this area may not be converted into additional bar area.
11. The last alcoholic beverage shall be served no later than one-half hour before closing or 11:00 p.m., whichever is earlier.

12. The sale of alcoholic beverages shall be in conjunction with food sales. Food service with a full menu shall be made available during all hours of business operation.
13. The premises shall operate under Type 47 (On-Sale General Eating Place) alcohol license and be maintained as a bona-fide eating establishment. The premises shall not obtain Type 48 (On-Sale General Public Premises) or any other public premises type licenses without the approval of a Conditional Use Permit and/or Expressive Use Permit.
14. The off-site sale and/or consumption of alcohol are strictly prohibited.
15. Alcoholic beverages shall not be served in disposable containers.
16. No cover charges, entry fees, or minimum drink orders shall be charged /required of patrons. There shall be no restrictions on the age of customers.
17. Promoter-produced parties or events shall be prohibited. These events include private parties that involve with third persons who profit from organizing and/or drawing attendees to the events.
18. Customized lighting and sound system conducive of a nightclub atmosphere shall be prohibited at all times.
19. Amplification of music shall comply with the regulations of Chapter 9.36 of Pasadena Municipal Code.
20. Signs advertising brands and types of alcoholic beverages or the availability of alcohol for sale at the subject site shall not be visible from the exterior of the premises.
21. The following preventive measures shall be undertaken to reduce the potential for alcohol related problems:
 - a. Taxicab phone numbers shall be posted in a conspicuous location at all times in the area(s) where alcohol is served to customers;
 - b. All employees selling or serving alcohol shall be required to participate in an alcohol training program offered by the Alcoholic Beverages Control prior to the operation of selling/serving alcohol;
 - c. The availability of a variety of non-alcoholic beverages shall be made known and offered to customers, and
 - d. No more than four video games shall be permitted.
22. These conditions of approval must be posted in a conspicuous location for public viewing within the restaurant on a continuous basis for the life of this Conditional Use Permit beginning on the date the alcohol sales commence.
23. The site and surrounding area shall be maintained in a litter and graffiti free manner. Any graffiti that should appear on the site shall be removed within 48 hours.

24. Compliance with the City of Pasadena Refuse Storage regulations, see Section 17.40.120 of the Pasadena Municipal Code, shall be maintained at all times.

Public Health Department

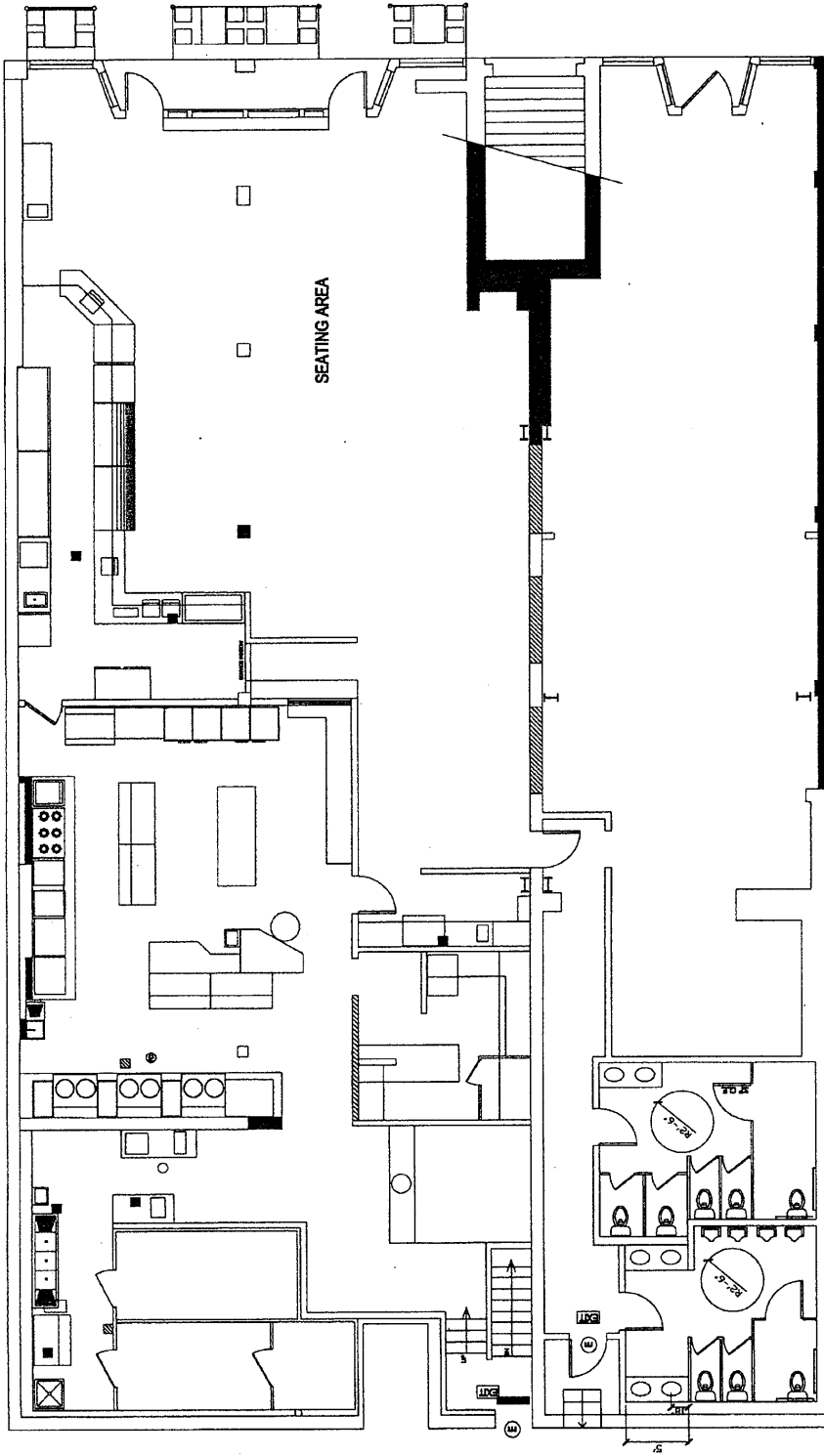
25. The applicant must comply with all local, state, and federal tobacco control laws, including but not limited to, Pasadena Municipal Code Sections 8.78.071 to 8.78.072, which prohibits smoking in unenclosed areas of bars and restaurants (e.g. outdoor dining areas).

Public Works Department

26. This application does not permit sidewalk dining in the public right-of-way. If the applicant intends to serve any food or beverages in the public right-of-way, an application shall be filed with the Department of Public Works for a sidewalk dining occupancy permit to establish or maintain a sidewalk dining area within the public right-of-way. Sidewalk dining shall comply with all the requirements of Chapter 12.13, entitled "Sidewalk Dining on Public Walkways," of the Pasadena Municipal Code.

ATTACHMENT C SITE PLAN

CONDITIONAL USE PERMIT #5471



FLOOR PLAN
SCALE 1/4"=1'-0"

DARKJIAN ASSOCIATES

2411FOOTHILL BLV.
PASADENA CA, 91107
TEL: (626)405-0556

FLOOR PLAN

CHOZA MAMA
PERUVIAN CUISINE
84 E. COLORADO BLVD, PASADENA CA

A-3

RECEIVED

11 SEP 15 AM 11:16

CITY CLERK
CITY OF PASADENA



September 14, 2011

Mayor Bill Bogaard
Pasadena City Council
100 North Garfield Avenue
Pasadena, CA 91109
VIA EMAIL

Re: Choza Mama

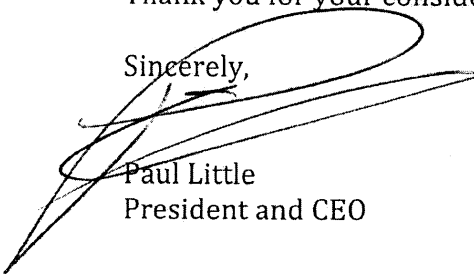
Dear Mayor Bogaard and Pasadena City Council,

Please do not call up the Conditional Use Permit approval for Choza Mama.

Choza Mama is a well run, reputable restaurant and a positive addition to the dining community in Pasadena. Choza Mama would serve alcohol in conjunction with food service only. The restaurant owners are not asking to do anything more than what their competitors in the area are allowed. In this challenged and hyper-competitive economy, allowing full alcohol sales would mean Choza Mama could compete fairly with neighboring restaurants.

Thank you for your consideration.

Sincerely,



Paul Little
President and CEO