

RECEIVED

02 DEC -4 AM 11:31

DECEMBER 3, 2002

TO: JANE RODRIGUEZ

FROM: COUNCILMAN CHRIS HOLDEN

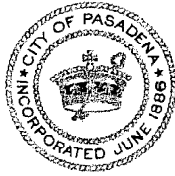
RE: CONSIDERATION FOR CALL FOR REVIEW

CITY CLERK  
CITY OF PASADENA

I AM REQUESTING YOU AGENDIZE FOR CONSIDERATION A CALL FOR REVIEW  
OF CONDITIONAL USE PERMIT # 4061 FOR OFF-SITE LIMITED ALCOHOL SALES  
(BEER AND WINE) AT HOME FOODS MARKET.

-----  
CHRISTOPHER HOLDEN

12/9/2002  
7.A.8.



PLANNING & DEVELOPMENT DEPARTMENT  
PLANNING DIVISION

November 22, 2002

Dawit Ghebresellasie  
1190 N. Fair Oaks Ave.  
Pasadena, CA 91103

**RE: Conditional Use Permit #4061  
1190 N. Fair Oaks  
Council District #3**

Dear Mr. Ghebresellasie:

Your application for a **Conditional Use Permit at 1190 N. Fair Oaks**, was considered by the **Board of Zoning Appeals on November 20, 2002**.

**CONDITIONAL USE PERMIT: For off-site limited alcohol sales (beer and wine) at Home Foods Market.**

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

Based upon the findings, the Board of Zoning Appeals decided to **sustain** the decision of the Zoning Hearing Officer and **deny** the application.

You are hereby notified that the decision of the Board of Zoning Appeals is not subject to further appeal. This decision becomes effective on the eleventh day from the date of the decision. The effective date for this case is **December 5, 2002**. However, prior to the effective date, a member of the City Council may stay the decision and request that it be called-up to the City Council for review.

This project has been determined to be **Categorically Exempt (Class 1)** from environmental review pursuant to the guidelines of the California Environmental Quality Act, CEQA Guidelines, Section 15301, Existing Facilities.

**Conditional Use Permit #4061**

**Page 2**

For further information regarding this case, please contact, **Jennifer Paige-Saeki at, (626) 744-7231.**

Sincerely,

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

Denver E. Miller  
Zoning Administrator

DEM:jps:ac

Enclosures: Attachment A

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

**ATTACHMENT A  
SPECIFIC FINDINGS**

**Conditional Use Permit for Off-Site Alcohol Sales**

1. *The proposed location of the conditional use will detrimentally affect the nearby surrounding area after giving consideration to the proximity and nature of the proposed use with respect to the following: i. Residential uses and residential districts; ii. Religious assembly uses, public or private schools, hospitals, park and recreation facilities, places of public assembly that attract minors and other similar uses; and iii. Other establishments offering alcoholic beverages (including beer and wine) for sale for consumption on-site and off-site.* The Police Department has stated the subject site is located in an area of higher crime rates than other areas of the city. Alcohol sales in conjunction with the sites close proximity to two parks (Robinson and La Pintoresca), residential uses and the Jackie Robinson Center may aggravate existing problems in the area. Residents can continue to be served by the reputable neighborhood market, without the addition of alcohol. Alcohol can be purchased at Berry and Sweeney Pharmacy and Vons Supermarket, which are located within close proximity to the site.
  2. *The proposed location of the conditional use may aggravate existing problems created by the sale of alcohol, such as loitering, public drunkenness, sales to minors, noise and littering.* The Police Department has indicated that the subject site is an area of higher than normal crime rates. This, combined with the sites close location to two parks, residential properties and the Jackie Robinson Center may aggravate existing problems in the area. Further, the Fair Oaks Orange Grove Specific Plan specifically prohibits the off-site sale of alcohol throughout the Specific Plan area. The area has been identified through the adopted specific plan as an area that should not encourage off-site alcohol sales. Although the implementing ordinance has not been adopted, the Specific Plan has been adopted by the City Council. Given the sites location and standards set forth in the specific plan, Community Planning and the Police Department are both recommending denial of the request to sell alcohol.
  3. The Board of Zoning Appeals additionally found that based upon the evidence presented by surrounding property owners including but not limited to Kings Village and the Urban League that the *location of the conditional use will adversely affect the general welfare of the surrounding property owners.*
-

**BOARD OF ZONING APPEALS  
STAFF REPORT  
November 20, 2002**

**TO:** Board of Zoning Appeals  
**FROM:** Current Planning  
**SUBJECT:** Conditional Use Permit # 4061  
1190 North Fair Oaks Avenue  
**APPELLANT:** Dawit Ghebresellasie  
**CASE PLANNER:** Jennifer Paige-Saeki

---

**ZONING HEARING OFFICER AND ZONING ADMINISTRATOR'S RECOMMENDATION:**  
Acknowledge the Environmental Determination and **deny** the Conditional Use Permit request to allow off-site alcohol sales (beer and wine only) at Home Foods Market.

**ENVIRONMENTAL DETERMINATION:** 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, Class 1 §15301, Existing Facilities).

**BACKGROUND:**

The appellant, Dawit Ghebresellasie, is requesting a Conditional Use Permit to sell beer and wine for off-site consumption at Home Foods Market. Home Foods Market is an independently owned grocery store that has been operating at the site since 1987. Merchandise currently sold at the store includes groceries, frozen and deli items, produce etc.

The case was heard at the September 4, 2002 Zoning Hearing Officer meeting. At the meeting, there were five speakers in favor of the application and three speakers in opposition to the application. The Zoning Hearing Officer (ZHO) upheld staff's recommendation to deny the CUP request.

The case was heard by the Board of Zoning Appeals (BZA) on October 16, 2002. At the meeting there were a number of speakers both in favor and in opposition to the request. After taking public testimony, the BZA had questions related to crime statistics as well as the applicability of the Fair Oaks Orange Grove Specific Plan (the plan has been adopted by the City Council, however the implementing ordinance has not). The BZA continued the case and directed staff to return with specific information related to alcohol crimes in the area and asked the City Attorney to provide more information related to the specific plan and the conditional use permit findings.

---

**ANALYSIS:**

Staff's review of a conditional use permit for alcohol sales entails an analysis of whether the proposed location of alcohol sales will affect the general welfare of the surrounding property owners, will result in an undesirable concentration and whether the proposed use will result in an aggravation of existing alcohol-related problems such as loitering, public drunkenness, sales to minors, noise and littering. There are special findings required for an alcohol CUP that are different from the standard CUP findings. The finding of consistency with the General Plan is not required for an alcohol CUP. For an application to be approved all of the required findings must be made. However, if there is a recommendation of denial, only that finding that cannot be made is required.

The following are the specialized CUP findings:

- a. *The proposed location of the conditional use permit will not adversely affect the general welfare of the surrounding property owners;*
- b. *The proposed location of the conditional use will not result in an undesirable concentration of premises for the sale of alcoholic beverages, including beer and wine, in the area;*
- c. *The proposed location of the conditional use will not detrimentally affect the surrounding area after giving consideration to the proximity and nature of the proposed use with respect to the following:*
  - I. *Residential uses and residential districts*
  - II. *Religious assembly uses, public or private schools, hospitals, park and recreation facilities, places of public assembly that attract minors and other similar uses;*
  - III. *Other establishments offering alcoholic beverages (including beer and wine) for sale for consumption on-site and off-site; and*
- d. *The proposed location of the conditional use will not aggravate existing problems created by the sale of alcohol, such as loitering, public drunkenness, sales to minors, noise and littering.*

Police Department Statistics

At the request of the BZA, the Police Department has compiled statistics to support their recommendation of denial (Attachment A). The statistics cover the years 2000 through October 23, 2002. The violations listed are those considered "nuisance violations related to alcohol" and range from group disturbance to loud music violations. 14 locations were analyzed (nine locations in the Northwest and five locations outside of the Northwest) to provide a comparison in crime rates. In addition to food markets and liquor stores, parks and specific geographic locations have been studied. Based on the information provided, on average, there are a higher number of incidents at Northwest locations selling alcohol compared to those located outside of the Northwest. For example, in 2002 at Von's there were 327 violations compared to Golden Liquor with 283. In 2001 Berry and Sweeney had 172 violations compared to Argentina Market with 30. At the subject site in the past three years there have been 365 violations.

Violations at the subject site have been decreasing over the past three years. However, given a comparison to locations selling alcohol the Police Department feels that the overall rate of crime in and around the area of Home Foods Market will probably increase or at least remain equal to the other licensed alcohol establishments in Pasadena. A representative from the Police Department will be present at the hearing to answer questions related to the data.

#### Health Department Comment

To provide further information to the BZA, the Health Department has reviewed the application and recommends denial of the application (Attachment B). Given this is new information, staff provided the applicant a copy of the comments approximately two weeks prior to this hearing. The Health Department has found that given the sites close proximity to sensitive uses and the documented negative effects of alcohol there may be a detrimental affect on the surrounding area.

#### City Attorney's Memorandum

At the request of the BZA a memorandum has been prepared by the City Attorney's office to address questions related to the conditional use permit findings and the applicability of the Fair Oaks Orange Grove Specific Plan (Attachment C). The City Attorney has confirmed that there are specialized findings for an alcohol sales CUP and the finding of consistency with the General Plan is not required. In response to the applicability of the Specific Plan, the City Attorney states that although a General Plan consistency finding is not required the Specific Plan should not be ignored. Through adoption of the Specific Plan (which includes the prohibition of off-site alcohol sales) the City Council found that the sale of alcohol would be detrimental to the surrounding area. Further, it can be reasonably argued that in adopting the Specific Plan the City Council's decision was based on the some of the same considerations as those contained in the required alcohol CUP findings.

#### Conclusion

Given the location of Home Foods Market and it's close proximity to sensitive uses, the recommendation of denial from the Police Department and Health Department, and the fact that the site is located within the boundaries of the Fair Oaks Orange Grove Specific Plan which prohibits off-site alcohol sales, staff is recommending denial of the application. It is staff's conclusion, as well as the Zoning Hearing Officer, that two findings cannot be made. The findings for denial were included in the previous BZA staff report (attached to this report for reference as Attachment D). Additional correspondence has also been received and copies have been provided (Attachment E).

#### **ATTACHMENTS:**

- Attachment A- Police Department Statistics
  - Attachment B- Health Department Comment
  - Attachment C- City Attorney's Memorandum
  - Attachment D- BZA Report of 10/16/02 with all attachments
  - Attachment E- Additional correspondence
-