

Agenda Report

TO: CITY COUNCIL

DATE: JUNE 24, 2002

FROM: CITY MANAGER

SUBJECT: CALL FOR REVIEW OF CONDITIONAL USE PERMIT #4010 TO PERMIT THE ESTABLISHMENT OF A COMMERCIAL RECREATION USE (COMPUTER ARCADE), 319 S. ARROYO PARKWAY

RECOMMENDATION:

1. It is recommended that, the City Council acknowledge that this action is categorically exempt from CEQA; and
2. Uphold the decision of the Board of Zoning Appeals to approve the conditional use permit application to allow the establishment of a commercial recreation use (computer arcade) for the property located at 319 South Arroyo Parkway.

PREVIOUS ACTIONS:

On March 6, 2002 the Zoning Hearing Officer heard the Conditional Use Permit application for a proposed commercial recreation use (computer arcade). The applicant, Cyberian Zone is proposing to provide 20 computer terminals within an existing commercial space for rental purposes by the hour. The case was subsequently approved with modified conditions. Staff recommended hours of operation on weekdays until 10 p.m. and on weekends until 11:00 p.m. The Zoning Hearing Officer approved hours of operation to midnight seven days a week. There were six speakers at the hearing, five were patrons of the use and one was a resident who was opposed to the hours requested by the applicant and any potential noise due to the late hours. On March 25, 2002 the City Council unanimously voted to call the case up for review before the Board of Zoning Appeals.

On April 17, 2002, the Board of Zoning Appeals conducted a public hearing on the appeal application. Speakers were present both in favor and opposition to the project. Those in favor expressed concern over not being permitted to operate until 2 a.m. Those in opposition expressed concerns related to traffic, noise and the sites proximity

to residential uses. The Board of Zoning Appeals upheld the Zoning Hearing Officer's decision to approve the application by a 5-0 vote. They also added conditions of approval from the Police Department, which were not available at the Zoning Hearing Officer hearing. The added conditions included: a) upgrade of existing surveillance cameras; b) no alcoholic beverages sold or possessed by anyone on the premise, c) the owner shall make every effort to monitor minors and d) provide a waiting area of no less than eight seats inside the premise and no outdoor seating or waiting shall be permitted.

BACKGROUND:

The applicant, Cyberian Zone, has filed a Conditional Use Permit application to operate a Commercial Recreation use located at 319 South Arroyo Parkway, space #4. The use, the Cyberian Zone, has been operating at the site since September 2000 as a personal service business that provides computers with word processing programs for public use. The business license was issued for a computer rental service. The submitted application requests approval to operate an arcade business within the existing 1,215 square foot commercial space. The applicant has submitted a floor plan showing 20 personal computers for Internet, word processing and gaming purposes.

A Code Compliance Officer investigated a complaint regarding loitering and excessive noise on July 12, 2001. Upon his inspection, he observed multiple computers and determined that the use was more than just a computer rental service. There appeared to be more game programs than word processing programs on the computer he examined and all of the people observed were playing games that emitted sounds from the speakers at individual stations. In addition, the operator stated that the business was open until 4 a.m. during the week and 24 hours on the weekends. A follow-up inspection was conducted by the Zoning Administrator who, after observing similar circumstances, made a formal interpretation that the use was similar to a game arcade that involved more than three computers (machines). The City determined that there were several similar uses citywide that were issued business licenses as a computer rental service. They all received notice that the use was reclassified as commercial recreation and a Conditional Use Permit would be required to continue to operate.

The applicant stated in their application that the purpose of Cyberian Zone is to provide inexpensive Internet access. Their customer base is composed of young members, who range in age from 8—21 years and they draw their customer base from the San Gabriel Valley area. Their peak hours are after 8 p.m. since this is a use that is primarily used after school and work. The cost for the use of the computer is from \$3.00 to \$4.00 an hour. Any customer below the age of 13 is required to have approval from a legal guardian and must be a club member, which requires a permission slip to be kept on file to access the business. The club membership provides protection for the business and the minor member. The facility can also be used for birthday parties.

Conditional Use Permit for Commercial Recreation Use

Pursuant to Section 17.33.040 of the Zoning Code (Central District-Land Use Regulations), this type of use (Commercial Recreation) is conditionally permitted in the CD-9 zoning district. A Conditional Use Permit is necessary because of the nature of

this type of use, the potential for noise, evening activity, and other characteristics that may be incompatible with surrounding properties. Review of Conditional Use Permit applications provide staff with an opportunity to conduct a detailed review of the proposal to assess compatibility issues, and to develop conditions that will eliminate or mitigate any potential impacts to the surrounding area.

Hours of Operation

Through this CUP application, Cyberian Zone has asked for a 24 hour operation or at minimum, hours of operation until 4 a.m. seven days a week. The proposed hours are a concern due to the impacts on future residential housing across the street at the Del Mar Station and the fact that many of the customers who patronize arcade establishments are young adults and minors. To the east is a residential district, which has expressed concern regarding the hours of operation for several proposed uses on Arroyo Parkway. In addition, there is a mini-mart that sells alcohol four doors to the south of this use, which remains open until 11 p.m. and has had several incidents in the last two years. The Police Department received seven service calls, which range from loitering, assault, and public intoxication since September of 2000 at this site.

The Board of Zoning Appeals approved hours of operation until 12:00 a.m. seven days a week. With this limitation on the hours of operation and the other conditions of approval the business should operate with minimum issues.

Parking

In response to concerns from area residents regarding the number of parking spaces available in the center, staff recommended that the applicant provide a parking analysis (Attachment C). The analysis concluded that the minimum number of patrons that drive to the business was six and the maximum number was 38. The analysis shows an increase in the number of cars after 6 p.m. especially on the weekends.

Staff is recommending that the parking requirement for these uses be increased to six spaces per 1,000 square feet based on parking demand. The current parking ratio requirement for an arcade use is 2.5 parking spaces per 1,000 square feet. The floor area of Cyberian Zone (1, 215 square feet) would require three parking spaces. The parking lot in front and to the south of the use has a total of 73 spaces, 36 are currently required for the existing uses (Attachment D). If the two vacant spaces were filled with retail uses there would still be 23 additional parking spaces available.

Staff recommended to the Planning Commission on June 12, 2002 to modify the parking requirement to six spaces for every 1,000 square feet of gross floor area for Internet Access Studio uses. Although the Planning Commission did not have any problems with this specific issue, it was included in a review of changes to the commercial districts and they asked staff to come back at a later date.

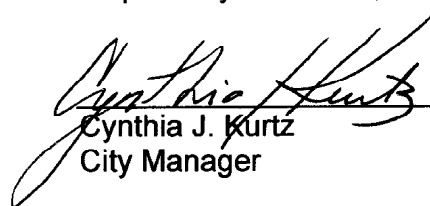
ENVIRONMENTAL DETERMINATION:

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act, Class 1, (Title 14, Chapter 3, §15301 of the Administrative Code of the State of California) and Existing Facilities.

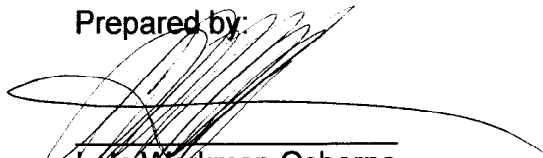
FISCAL IMPACT:

The site is currently a developed parcel. If the project were improved there would be an incremental increase in sales tax.

Respectfully submitted,


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City Manager

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