

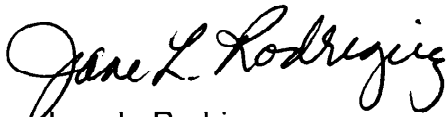
MEMORANDUM - CITY OF PASADENA

TO: City Council
FROM: City Clerk
DATE: October 18, 2007
RE: Request to Rescind and Withdraw Call for Review of Conditional Use Permit No. 4117 (42 S. De Lacey Avenue, Union Cattle Company)

At the conclusion of last Monday's Council meeting, Councilmember Madison inquired regarding the process to withdraw Council's prior action for a call for review of Conditional Use Permit No. 4117 to the Board of Zoning Appeals and, if necessary, place the matter on Council's agenda to withdraw the call for review.

I have conferred with the City Attorney's Office, and it will take an action of the Council to rescind and withdraw Council's prior action. Attached to this memorandum is an excerpt of Council minutes of July 23, 2007 when Council called the matter for review to the Board of Zoning Appeals (BOZA), and the July 16, 2007 decision letter of the Hearing Officer. After Council's July 23, 2007 action, Conditional Use Permit No. 4117 was initially scheduled for a BOZA hearing on August 15 and continued to September 19, 2007. At the applicant's request, the case was continued indefinitely, and the matter has not been heard by BOZA.

A majority vote of the Council is necessary to rescind Council's prior action, in which case the Hearing Officer decision will stand as reflected in the attached July 16, 2007 decision letter.



Jane L. Rodriguez
City Clerk

10/22/2007

3.B.1.

to eliminate term limits for members of the RBOC Board designated by the Tournament of Roses, UCLA, the City Manager and by the City Council as the Councilmember representative; and (C) to clarify that reappointment to the Board in a different representative capacity is not subject to the stated term limits.

(2) With respect to the Pasadena Center Operating Company: (A) to eliminate term limits for the member of the Pasadena Center Operating Company Board designated by the City Council; and (B) to clarify that reappointment to the Board in a different representative capacity is not subject to the stated term limits.

The Mayor reviewed the agenda report.

It was moved by Vice Mayor Haderlein, seconded by Councilmember Tyler, to approve the Mayor's recommendation. (Motion unanimously carried) (Absent: Councilmember Holden)

Vice Mayor Haderlein was excused at 9:11 p.m.

CONSIDERATION OF A CALL FOR REVIEW OF A HEARING OFFICER DECISION TO THE BOARD OF ZONING APPEALS REGARDING A MODIFICATION TO CONDITIONAL USE PERMIT NO. 4117, TO ALLOW FOR THE ON-SITE SALE AND CONSUMPTION OF FULL ALCOHOL IN CONJUNCTION WITH THE OPERATION OF THE PREVIOUS MICROBREWERY RESTAURANT (42 SOUTH DE LACEY AVENUE, UNION CATTLE COMPANY) (Councilmember Madison)

Councilmember Madison explained his reasons for asking for a review of the Hearing Officer's findings regarding the modification to the Conditional Use Permit.

It was moved by Councilmember Madison, seconded by Councilmember Gordo, to call this matter for review to the Board of Zoning Appeals. (Motion unanimously carried) (Absent: Councilmember Holden, Vice Mayor Haderlein)

RECESS

On order of the Mayor, the regular meeting of the City Council recessed at 9:12 p.m. to the regular meeting of the Community Development Commission.

RECONVENED

On order of the Mayor, the regular meeting of the City Council reconvened at 9:13 p.m. (Absent: Councilmember Holden, Vice Mayor Haderlein)

ORDINANCE – FIRST READING

Conduct first reading of "AN ORDINANCE OF THE CITY OF PASADENA SUSPENDING SECTIONS 9.36.220 AND 9.36.230 OF THE PASADENA MUNICIPAL CODE RELATING TO LIMITATIONS ON HOURS OF OPERATION OF



PLANNING & DEVELOPMENT DEPARTMENT
PLANNING DIVISION

July 16, 2007

Jed Sanford
Union Cattle Company
42 South De Lacey Avenue
Pasadena, CA 91101

**RE: Revocation/Modification of Conditional Use Permit #4117
42 South De Lacey Avenue
Council District #6**

Dear Mr. Sanford:

Your application for a **Revocation/Modification of Conditional Use Permit #4117** at **42 South De Lacey Avenue** was considered by the Hearing Officer on **July 12, 2007**.

REVOCATION/MODIFICATION OF CONDITIONAL USE PERMIT: The Hearing Officer will reviewed Conditional Use Permit #4117, approved December 4, 2002, to allow for the on-site sale and consumption of full alcohol (beer, wine, and distilled spirits) in conjunction with the operation of the previous microbrewery restaurant. Union Cattle Company is currently operating under the Conditional Use permit as a restaurant use. The purpose for the hearing was to determine whether there are reasonable grounds to revoke the Conditional Use Permit or modify the conditions of approval. Grounds for revocation or modification include violation of the existing conditions of approval and/or operation of the business in a manner that constitutes a nuisance.

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

Based upon this finding, it was decided by the Hearing Officer that the Conditional Use Permit be **modified** with conditions listed in Attachments B and in accordance with submitted plans stamped **July 12, 2007**.

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 Zoning Administrator can grant a one-year extension of your approval. Such a request and the appropriate fee must

Revocation/Modification of Conditional Use Permit #4117

Page 2

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.

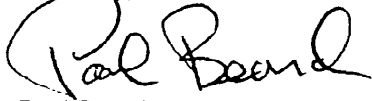
You are hereby notified that, pursuant to Pasadena Municipal Code Chapter 17.72, any person affected or aggrieved by the decision of the Hearing Officer has the right to appeal this decision within **ten days (July 23, 2007)**. The effective date of this case will be **July 24, 2007**. Prior to such effective date, a member of the City Council or Planning Commission may stay the decision and request that it be called for review to the Board of Zoning Appeals. However, 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 \$1404.92. The Appeal fee for Non-profit Community-based Organizations pre-registered with Neighborhood Connections is \$702.46.

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.

This project was found to be categorically exempt, Class 1, from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 1, §15301, Existing Facilities).

For further information regarding this case please contact **Kent Lin** at (626) 744-6817.

Sincerely,



Paul Beard
Hearing Officer

Enclosures: Attachment A, Attachment B

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

ATTACHMENT A
FINDINGS FOR MODIFICATION OF CONDITIONAL USE PERMIT #4117

Modification to Conditional Use Permit #4117:

1. *There are sufficient grounds to justify revocation that can be corrected by modifying existing conditions or imposing new or additional conditions* in that Section 17.78.060 of the Zoning Code declares any use of property contrary to the provisions of the Zoning Code, including the failure to comply with or carry out any condition attached to the grant of a conditional use permit, be declared unlawful and a public nuisance. Union Cattle Company is not operating as a bonafide restaurant use and is in violation of Conditional Use Permit #4117.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR MODIFICATION OF CONDITIONAL USE PERMIT #4117

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

1. The Zoning Administrator, at any time, can call for a review of the approved conditions at a duly noticed public hearing before the Hearing Officer. 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.
2. The business shall be operated as a bonafide restaurant establishment at all times. A full menu shall be available during all hours of operation.
3. Live entertainment (indoor or outdoor) is not permitted without the approval of an Expressive Use Permit. There shall be no video games, billiard tables or like attractions with the exception of the operation of the mechanical bull approved in Conditional Use Permit #4517.
4. Live amplified music (indoor or outdoor) and/or live disc jockeys (DJs) shall be prohibited at all times.
5. Customized lighting and sound systems conducive of a nightclub atmosphere (indoor or outdoor) shall be prohibited at all times.
6. No pay telephone shall be maintained on the exterior of the premises.
7. The applicable code requirements of the Zoning Code and of all other City Departments shall be met at all times.
8. Conditions of Approval from Conditional Use Permits #4117 & #4517 shall remain in full force and effect.
9. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
10. The modification to Conditional Use Permit #4117 shall comply with all conditions of approval, subject to monitoring by the City Condition Monitoring Coordinator. Under the Monitoring Program, your project will be inspected by Code Compliance Staff to determine compliance with the conditions of approval. Required monitoring fees for setup and inspections shall be paid on or after the effective date of this permit but prior to the issuance of any building permits for tenant improvements. Contact the Code Compliance Staff at (626) 744-4633 to verify the fee. All fees are to be paid to the cashier at the permit center located at 175 N. Garfield Avenue. The cashier will ask for the activity number provided above. Failure to pay the required monitoring fee prior to initiating the application may result in revocation proceedings of this entitlement.