

ATTACHMENT C

BOARD OF ZONING APPEALS STAFF REPORT February 20, 2008

SUBJECT: Conditional Use Permit #4924

LOCATION: 96-98 E. Colorado Boulevard

ZONING DESIGNATION: CD-1 AD-1 (Central District Subdistrict-1, Old Pasadena, Alcohol Overlay District 1)

GENERAL PLAN DESIGNATION: Central District Specific Plan

CASE PLANNER: Beilin Yu

APPLICANT: Odyssey Development Services

APPELLANT: Call for Review by City Council

ZONING ADMINISTRATOR'S REVISED RECOMMENDATION: Adopt the Environmental Determination and the modified Specific Findings in Attachment A to **disapprove** the Conditional Use Permit application.

HEARING OFFICER'S RECOMMENDATION: Adopt the Environmental Determination and the Specific Findings to **approve** the Conditional Use Permit application with the Conditions of Approval in Attachment B.

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, §15301, Class 1, Existing Facilities). This section specifically applies to small additions, expansions or alterations to existing structures where there is negligible or no expansion of the use.

STAFF ADDENDUM:

At the November 7th, 2007 Public Hearing, the Hearing Officer heard Conditional Use Permit #4924. This was an application to allow the sale of a full-line of alcoholic beverages for on-site consumption (beer, wine and distilled spirits) in conjunction with the operation of an existing restaurant (Hooters). This request is an upgrade from the existing sale of beer and wine only. In addition, the applicant has proposed to install four video game machines ancillary to the restaurant use, which was prohibited under Condition 15.e. of the original Conditional Use Permit #4257. Staff's previous recommendation for this proposal was for approval of the CUP application with conditions, including a condition that no video game machines be allowed.

At the November 7, 2007 Hearing Officer public hearing, there were four speakers and seven items of correspondence in opposition to the project. In addition, the Special Investigations Section of the Pasadena Police Department spoke in opposition to the project. The Hearing Officer took the case under advisement. On November 9, 2007, the Hearing Officer adopted

the Zoning Administrator's original recommended findings and approved Conditional Use Permit #4924 with an added condition that "At any time during the thirty-six (36) months following the date of approval of this request, the Director of Planning may, at his or her discretion, convene a public hearing in order to modify the conditions of approval, and/or to revoke the approval of this permit, as is deemed reasonable by the City of Pasadena Planning Department." The Hearing Officer's decision included a condition that no video game machines be allowed.

The Hearing Officer's decision was appealed by Day One, a community group who was in opposition to the request, on November 16, 2007. On December 3, 2007, the City Council voted to call this case up for review to the Board of Zoning Appeals. Subsequently, Day One withdrew its appeal application. After further review and analysis of additional information, staff's recommendation for the Conditional Use Permit is now for disapproval.

ANALYSIS:

- The existing use, although defined as a restaurant under the City's current Zoning Code, operates differently from other restaurants. The City's Zoning Code defines "Restaurants" as an establishment that sells prepared food or beverages either indoors or outdoors in non-disposable containers. With a bona fide restaurant use, the sale of alcohol is incidental to the sale of food. Although the use falls under the definition of a restaurant, the facility functions as a sports bar where the food menu is secondary to the beverage menu. After fully evaluating the proposal to increase the sale of alcohol from beer and wine only to full alcohol, staff finds that this will further intensify the disparity between food sales and alcohol sales.
- The property is located in an Alcohol Density Overlay District (CD-1/AD-1) intended to reduce the negative impacts resulting from an over-concentration of alcohol sales. The Zoning Code requires new nightclubs, bars, taverns, billiard parlors with alcohol services within the Alcohol Density Overlay District to be located a minimum distance of 250 feet from an existing bar, tavern, billiard parlor. The Alcohol Overlay District was created in response to problems in the area associated with alcohol sales. The intent of the Alcohol Density Overlay District is to prevent public nuisances associated with alcohol services, such as loitering, public drunkenness, public urination, noise. Although, the existing use is not technically a bar or tavern, the upgrade to a full-line of alcoholic beverages at a business that operates like a sports bar, has the potential to increase the negative impacts associated with alcohol sales. This is inconsistent with the intent of the Alcohol Density Overlay District.
- According to the Pasadena Police Department, this block of Colorado Boulevard has a high level of problems associated with the sale of alcohol, such as public drunkenness, public urination, noise, and vandalism. There are currently 12 establishments within 1,000 feet of the subject site that sell alcohol, five of which are located within a one block radius of Hooters. This high level of nuisance activity is attributed to the over concentration of businesses that sell alcohol on this area.
- The Police Department has found that establishments with full alcohol sales have a significantly higher number of police calls than those with licenses for beer and wine only. Three of the five establishments within the one-block radius have licenses to sell a full-line of alcoholic beverages for on-site consumption. If the requested application is approved, there will be a total of four establishments selling a full line of alcoholic

beverages for on-site consumption within a one-block radius. It is extremely likely that this will exacerbate the over-concentration problems in the area.

It is Staff's opinion that the findings for approval of the Conditional Use Permit to allow the sale of a full-line of alcoholic beverages for on-site consumption in conjunction with the operation of the subject restaurant cannot be made. Staff recommends disapproval of the Conditional Use Permit based on the findings in Attachment A.

HEARING OFFICER ADDENDUM:

"After careful consideration of the application, having taken public testimony at the November 7, 2007 public hearing, and with full knowledge of the property and vicinity, I approved the request for a full-line of alcoholic beverages at this restaurant for the following reasons:

- The sale of a full line of alcoholic beverages is consistent with the activity in the immediately surrounding area of the Old Pasadena shopping and entertainment area. This area, zoned CD-1, is an urbanized area specifically zoned for entertainment uses, and more importantly, concentrates this type of entertainment use in an area that is not adjacent to residential uses. Further, the Old Pasadena entertainment area has an abundance of adequate parking available in the immediate vicinity. The concentration of entertainment activities in the area, especially along Colorado Blvd., can be monitored by police as part of their normal and routine surveillance of this entertainment area. Concentration of late-night and alcohol activities in one area allows concentration of police surveillance in that area, including police checkpoints for intoxicated drivers.
- It is reasonable that the Old Pasadena Shopping and Entertainment area contain a mix of entertainment opportunities for all types of patrons. It is prudent that no distinction be made between the types of restaurants (and their perceived clientele) when considering the issuance of an alcohol permit, especially since the alcohol permit can be sold or reassigned (with approval of the City of Pasadena and Alcohol Beverage Control). Due to the evidence that the establishment has, for several years, ardently followed all rules and regulations relating to alcohol service, then the distinction as to the type of clientele was not among the considerations of this hearing officer in this case. The General Plan of the City of Pasadena (Central District Specific Plan) specifically calls for the provision of a mix of land uses in this vicinity.
- The Pasadena Police Department did not produce any evidence of alcohol-related problems as a result of the current operation of a beer and wine license at this establishment, nor did the Pasadena Police Department appear at the hearing to request that this license not be granted. According to the staff report and testimony, it is clear that this restaurant establishment has been operating with a beer and wine license for several years without problem, and that this restaurant operator has complied with all alcohol-related laws and requirements, without incident. Further, there was no evidence (including no police report) of problems occurring that might be attributed to this restaurant establishment that would be associated with alcohol service, including but not limited to loitering, public drunkenness, public urination, vandalism, noise, etc.
- After review of the staff report, premises, and testimony, the hearing officer did not believe that the granting of this application would increase alcohol-related problems in the vicinity, nor aggravate any existing problems.

- The project is consistent with the General Plan in that the increased revenue generated and jobs created by the granting of this permit will be in keeping with Objective 10, Diverse Economy, of the Land Use Element of the General Plan”.

Attachments:

Attachment A: Zoning Administrator Revised Recommended Findings of Fact

Attachment B: Decision Letter with Hearing officer’s Findings of Fact and Modified Conditions of Approval, November 9, 2007

Attachment C: Hearing office meeting Staff Report, November 7, 2007

Attachment D: Letters Received and Presented at the November 7, 2007 Hearing Officer Public Hearing

ATTACHMENT A

ATTACHMENT A
ZONING ADMINISTRATOR MODIFIED FINDINGS OF FACT
CONDITIONAL USE PERMIT #4924

Conditional Use Permit: On-Site Sale of a Full-Line of Alcoholic Beverages in Conjunction with a Restaurant Use.

1. *The proposed location of the conditional use would result in an undesirable concentration of premises for the sale of alcoholic beverages in the area.* The proposed on-site sale of a full-line of alcoholic beverages will upgrade an existing beer and wine license at the subject restaurant to include distilled spirits. Although the existing establishment meets the technical definition of a "restaurant" under the City's Zoning Code, it operates as a sports bar. This is evident by the average patron who will frequent the establishment for the consumption of alcoholic beverages and light dining rather than the experience of a full meal, as well as the uniforms of the waitresses and merchandise sold (bikini calendars etc.). While open to patrons of all ages, the establishment attracts and is geared towards mature individuals, rather than that of a family style restaurant. Staff and the Police Department are concerned that the intensification of alcohol sales to include hard alcohol will further simulate the operation of a bar, where the sale of food is incidental to the sale of alcoholic beverages. Since the property is located within the CD-1-AD-1 (Central District Specific Plan, Alcohol Density Overlay District) Zoning District, which requires new bars to be located a minimum of 250 foot from an existing bar the sales of full-line alcoholic beverage would result in an undesirable concentration of bars in the area.

2. *The proposed location of the conditional use would aggravate existing problems created by the sale of alcohol, such as loitering, public drunkenness, sales to minors, noise and littering.* Within 1,000 feet of the subject site there are 13 establishments that sell alcohol. There are six establishments within this block of Colorado Boulevard (between Raymond Avenue and Arroyo Parkway) with licenses to sell alcoholic beverages for on-site consumption, including the existing beer and wine license for the subject use. Specifically, there are three establishments with licenses to sell a full-line of alcoholic beverages for on-site consumption and three establishments (including the subject use) with licenses to sell beer and wine for on-site consumption. According to the Pasadena Police Department this block of Colorado Boulevard also has a higher than average level of alcohol related problems, such as public drunkenness, public urination, and noise. The Police Department has also provided data that establishments with full alcohol sales have a higher than average level of police calls for service than those with Beer and Wine only. If the requested application is approved, there will be a total of four establishments with licenses to sell a full-line of alcoholic beverages for on-site consumption. The increased intensity of full alcohol sales for a use that does not operate as a traditional restaurant will intensify the already existing over concentration of alcohol related nuisance disruptions in the area.

ATTACHMENT B

**ATTACHMENT B
HEARING OFFICER FINDINGS OF FACT FOR
CONDITIONAL USE PERMIT #4924**

November 9, 2007 *CORRECTED November 14, 2007*

Burke Farrar
Odyssey Development Services
51 W Dayton St., Ste. 200
Pasadena CA 91105

RE: Conditional Use Permit #4924
 96-98 E Colorado Blvd.
 Council District #6

Dear Mr. Farrar:

Your application for a **Conditional Use Permit** at **96-98 E Colorado Blvd.** was considered by the **Hearing Officer** on **November 7, 2007.**

CONDITIONAL USE PERMIT: To allow the sale of a full-line of alcoholic beverages for on-site consumption in conjunction with the operation of an existing restaurant, an upgrade from the sale of beer and wine only, and to install four video games ancillary to the operation of the restaurant (Hooters).

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 Attachments B and C and in accordance with submitted plans stamped **November 7, 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 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 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

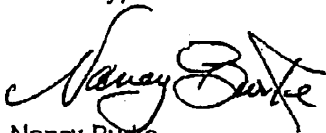
within **ten days (November 19, 2007)**. The effective date of this case will be **November 20, 2007**. Prior to such effective date, a member of the City Council or Planning Commission may stay the decision and request that it be called for review to the Board of Zoning Appeals. However, if the tenth 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 \$.2754.05. The Appeal fee for Non-profit Community-based Organizations pre-registered with Neighborhood Connections is \$1377.00.

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.

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, §15301, Class 1, Existing Facilities). This section specifically applies to small additions, expansions or alterations to existing structures where there is negligible or no expansion of the use. The existing restaurant will remain a restaurant.

For further information regarding this case please contact **Natsue Sheppard** at **(626) 744-7527**.

Sincerely,



Nancy Burke
Hearing Officer

Enclosures: Attachment A, Attachment B, Attachment C

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
SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #4924

Conditional Use Permit: On-Site Sale of a Full-Line of Alcoholic Beverages in Conjunction with a Restaurant Use.

3. *The proposed location of the Conditional Use Permit would not adversely affect the general welfare of the surrounding property owners. The operation of an existing restaurant use with a full-line of alcohol sales (beer, wine and distilled spirits) is consistent with the activity of the surrounding uses. 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.*
4. *The proposed location of the conditional use would not result in an undesirable concentration of premises for the sale of alcoholic beverages in the area. The proposed on-site sale of a full-line of 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.*
5. *The proposed location of the conditional use would not detrimentally affect the nearby surrounding area after giving consideration to the proximity and nature of the proposed use with respect to residential uses and districts, religious assembly uses, private or public schools, hospitals, parks and recreation facilities, places of public assembly which attract minors and other similar uses. 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, they are adequately buffered by office buildings and other commercial uses. 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.*
6. *The proposed location of the conditional use would not aggravate existing problems created by the sale of alcohol, such as loitering, public drunkenness, sales to minors, noise and littering. The subject restaurant has operated at the subject location for several years without documented violation of any City Ordinance. With conditions, the approval of the Conditional Use Permit for the proposed on-site sale of a full-line of alcoholic beverages at this premises will not aggravate existing problems in the vicinity.*

7. *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 new 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 #4924

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

1. The site plan, floor plan, elevations, and building sections submitted for building permits and/or future development shall substantially conform to plans submitted and stamped "Received at Hearing, November 7, 2007", except as modified herein.
2. 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.
3. 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.
4. The approval of this application authorizes the on-site sale of a full-line of alcoholic beverages (beer, wine and distilled spirits) at the associated restaurant in conjunction with the sale of food (full menu) during all hours of alcohol sales. Any change from the approved use of the proposed restaurant will require a new Conditional Use Permit.
5. The last alcoholic beverage shall be served no later than 1:30 a.m.
6. Sale of alcoholic beverages shall terminate ½ hour before closing.
7. Alcoholic beverages shall be served in non-disposable containers.
8. There shall be no off-site sales of alcoholic beverages.
9. Partition walls of a minimum of five feet in height shall be installed to separate the bar area from the main dining area. The partition walls shall be made of solid materials, including but not limited to opaque or transparent glasses. The design of the walls shall be subject to the approval of the Zoning Administrator.
10. The bar area shall be no larger than 490 square feet, and the counter area shall accommodate no more than 12 seats, as depicted on the approved floor plan.
11. There shall be no dancing or amplified live entertainment.
12. 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 subject building.
13. Any proposed outdoor dining in the public right-of-way shall require a separate approval and meet all conditions of the Public Works Department.
14. The off-site sale and the off-site consumption of alcohol are strictly prohibited.

15. The following preventive measures shall be undertaken to reduce the potential for alcohol related problems:
 - a) Food service shall remain available during all hours of operation. The subject use shall be maintained as a bona-fide eating establishment,
 - b) Taxicab phone numbers shall be posted in a conspicuous location at all times in the area(s) where alcohol is served to customers,
 - c) All employees selling or serving alcohol shall be required to participate in an alcohol management training program offered by the Alcoholic Beverages Control prior to the operation of selling/serving alcohol,
 - d) The availability of a variety of non-alcoholic beverages shall be made known and offered to customers,
 - e) Video games or similar loitering attractions shall not be permitted.
 - f) The acceptance of "cover charges" for entry and/or similar type of fees for live entertainment or special events shall be prohibited.
 - g) The alcohol license for the premises shall not be exchanged from an "eating place" license to a "public premises" license, as defined by the State Department of Alcoholic Beverage Control. The restriction of the entry of patrons to the premises based on their age shall be prohibited.
16. The sale of alcoholic beverages shall not exceed the sale food and non-alcoholic beverage in quarterly basis to ensure the primary use of the premises to be maintained as a restaurant. The record shall be maintained at the premises at all times and be presented to the City agencies for review upon request.
17. Compliance with the City of Pasadena Refuse Storage regulations, see §17.40.120 of the Pasadena Municipal Code, shall be maintained at all times.
18. At no time shall the trash dumpster or any loose trash be located outside of the designated trash enclosure. Additionally, the number of trash pick-up shall be increased in order to assist with this effort. The specific number is at the applicant's discretion, but staff reserves the right to request a specific increase if the problem persists.
19. The applicable code requirements of the Zoning Code and of all other City Departments shall be met at all times.
20. 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 the date the alcohol sales commences.
21. At any time during the thirty-six (36) months following the date of approval of this request, the Director of Planning may, at his or her discretion, convene a public hearing

in order to modify the conditions of approval, and/or to revoke the approval of this permit, as is deemed reasonable by the City of Pasadena

22. Planning Department. 22. The proposed project, Activity Number PLN2007-00312, is subject to the City's Condition/Mitigation Monitoring Program and is subject to Final Zoning inspection. Condition Monitoring is required for your project. Under the Monitoring Program, your project will be inspected by Code Compliance staff to determine compliance with the conditions of approval. The Condition/Mitigation Monitoring inspection will occur during the term of the project. The Final Zoning Inspection will occur at the completion of the project. Required monitoring fees for inspections shall be paid on or after the effective date of this permit, but prior to the issuance of any building permits. 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 fees prior to initiating your approved land use entitlement may result in revocation proceedings of this entitlement.

ATTACHMENT C

ATTACHMENT C

**HEARING OFFICER
STAFF REPORT
November 7, 2007**

SUBJECT: Conditional Use Permit #4924

LOCATION: 96-98 E. Colorado Boulevard

APPLICANT: Odyssey Development Services

ZONING DESIGNATION: CD-1 AD-1 (Central District Subdistrict-1, Old Pasadena, Alcohol Overlay District 1)

GENERAL PLAN DESIGNATION: Central District Specific Plan

CASE PLANNER: Natsue Sheppard

STAFF RECOMMENDATION: Adopt the Environmental Determination and the Specific Findings in Attachment A to **approve** the applications with the conditions in Attachment B and Attachment C.

PROJECT PROPOSAL: Conditional Use Permit – To allow the sale of a full-line of alcoholic beverages for on-site consumption in conjunction with the operation of an existing restaurant (Hooters), an upgrade from the existing sale of beer and wine only.

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, §15301, Class 1, Existing Facilities). This section specifically applies to small additions, expansions or alterations to existing structures where there is negligible or no expansion of the use. The existing restaurant will remain a restaurant.

BACKGROUND:

Site characteristics: The subject site is located on the south side of Colorado Boulevard and Mercantile Place between Raymond Avenue and Arroyo Parkway. It is located within a commercial area developed with restaurants, retail businesses, and commercial office uses. The existing restaurant occupies 6,814 square feet space on the first floor and 450 square feet space on the basement.

Adjacent Uses: North – Commercial
South – Commercial
East – Commercial

West – Commercial

Adjacent Zoning: North – CD-1 AD-1 (Central District Subdistrict-1, Old Pasadena, Alcohol Overlay District 1)
East – CD-1 AD-1 (Central District Subdistrict-1, Old Pasadena, Alcohol Overlay District 1)
South – CD-1 AD-1 (Central District Subdistrict-1, Old Pasadena, Alcohol Overlay District 1)
West – CD-1 AD-1 (Central District Subdistrict-1, Old Pasadena, Alcohol Overlay District 1)

Previous Cases: CUP#3667 – A Conditional Use Permit to allow the on-site sale of alcohol (beer and wine) in conjunction with the establishment of a new restaurant (Hooters). Approved with conditions March 31, 2000.
CUP#4257 – A Conditional Use Permit to allow the on-site sale of alcohol (beer and wine) in conjunction with the expansion of an existing restaurant (Hooters). Approved with conditions January 26, 2004.
ZPC#179 – Zoning Parking Credits for Hooters Restaurant expansion. Number of parking credit required: 26 credits.

PROJECT DESCRIPTION:

The applicant, Odyssey Development Services, has submitted a Conditional Use Permit application to allow the sale of a full-line of alcoholic beverages for on-site consumption in conjunction with the operation of an existing restaurant (Hooters), an upgrade from the existing sale of beer and wine only. In addition, the applicant is proposing to operate four video games ancillary to the restaurant use, which is prohibited under Condition Number 15.e. of the previous Conditional Use Permit #4257.

ANALYSIS:

Conditional Use Permit: On-Site Alcohol Sales

Section 17.30.030 (Central District Specific Plan) of the Pasadena Municipal Code requires a Conditional Use Permit for alcohol sales (beer and wine) in conjunction with the operation of restaurants.

Staff's review of a Conditional Use Permit for alcohol sales entails an analysis of whether the proposed location of alcohol sales would affect the general welfare of the surrounding property owners and whether the proposed use would result in an aggravation of existing alcohol-related problems such as loitering, public drunkenness, sales to minors, noise, and littering. The Hearing Officer may consider existing calls for police response to make a determination of whether there is an undesirable concentration of alcohol uses in the vicinity of the project site.

Zoning Background and Previous Approvals

The site is located within the CD-1 Zoning District, in which restaurant use is permitted by right. In addition, there is no regulation for the limited hours of operation within the district. Serving alcohol for on-site consumption at a restaurant requires an approval of a Conditional Use Permit

(CUP). The sale of beer and wine at this location was originally approved with CUP#3667 in 2000, and expansion of the floor area of the restaurant was approved with CUP#4257 in 2004. In this application, the applicant is proposing to sell a full-line of alcoholic beverages for on-site consumption in conjunction with the operation of the existing Hooters restaurant. The proposed hours of operation are from 10:00 a.m. to 2:00 a.m., seven days a week.

In addition to the primary Zoning District, the subject site is located within the AD-1 Alcohol Overlay District. Within this district, new bars or taverns, billiard parlors with alcohol service, nightclubs with alcohol service, and uses that provide for the sale of alcohol for off-site consumption shall be separated by a minimum distance of 250 feet from existing like-kind uses. A restaurant with bar area that exceeds 500 square feet or 30 percent of the dining area would be classified as a bar.

The subject establishment has been classified as a restaurant by the previously approved Conditional Use Permits. Under CUP#4257, the existing counter area was treated as bar area, which was no more than 400 square feet. The applicant is not proposing any physical changes in the configuration of the restaurant nor expansion of the bar area. However, most recent interpretation of a bar shall include seating area that is proximity to the bar counter and physically separated from the main dining area, because the primary use of the area is to serve alcoholic beverages not incidental to food service. The newly defined bar area identified by the applicant on the floor plan is 490 square feet. When adequately partitioned, the bar area for the restaurant would be less than 500 square feet; therefore, the subject establishment is classified as a restaurant and the AD-1 separation requirement is not applicable to the establishment.

Analysis of Existing Alcohol-Related Establishments in the Area

The project site is located within Census Tract #4636. According to the Department of Alcoholic Beverage Control (ABC), a maximum of eight alcohol licenses for on-site consumption are allowed in the Census Tract. Presently, the Census Tract has 51 on-site licenses and seven pending applications. Undue concentration exists in the area; however, the subject restaurant already possesses an on-site beer and wine license, and this application is to upgrade the license to a full-line alcohol at the same location. Therefore, the approval of this request will not contribute to the undue concentration of alcoholic establishments in the Census Tract.

The Conditional Use Permit application for alcohol sales requires the applicant to identify all uses that sell alcohol for either on-site or off-site consumption within 1,000 feet of the project site. Based on the information provided by the applicant, there are currently 13 establishments within 1,000 feet of the subject site that sell alcohol, as shown on the following diagram:

Item	Business	Address	Alcohol Type
1	Hooters Restaurant	96-98 E. Colorado Blvd.	On-Site Beer and Wine
2	Rotisserie Chicken	124 E. Colorado Blvd.	On-Site Beer and Wine
3	Red, White and Bluez	70 S. Raymond Ave.	On-Site General
4	Lucky Baldwin	17 S. Raymond Ave.	On-Site Beer and Wine
5	Formerly Araya Sushi	58 E. Colorado Blvd.	On-Site Beer and Wine
6	Manage	54 E. Colorado Blvd.	On-Site General
7	Bar Celona	42-46 E. Colorado Blvd.	On-Site General
8	Saigon Noodle	28 N. Raymond Ave.	On-Site Beer and Wine
9	A-Float Sushi	87 E. Colorado Blvd.	On-Site Beer and Wine
10	Hot Wings	89 E. Colorado Blvd.	On-Site Beer and Wine
11	Barney's Beanery	99 E. Colorado Blvd.	On-Site General

12	E's	115 E. Colorado Blvd.	On-Site General
13	Moose McGuillycuddy	119 E. Colorado Blvd.	On-Site General

The subject restaurant is located in Old Pasadena, which is a retail/entertainment destination. The site is surrounded by a mix of uses. Although there are some sensitive uses such as residential uses and religious assembly uses within 500 feet of the subject site, they are adequately buffered by office buildings other commercial uses. It is staff's opinion that the proposed sale of a full-line of alcoholic beverages at this location will not detrimentally affect the surrounding area, given the existing mixed-use conditions in the immediate area.

Police Department Review

The Special Investigations Section of the Pasadena Police Department has reviewed this application, and has recommended a denial of the application. The Police Department Command Staff states that there are no statistics to suggest that high calls for services are generated or poor business practices exist at the subject location; however, it is concerned that the addition of another full-service bar would increase alcohol related problems in already over-saturated Old Pasadena area. It is also a concern that by providing the additional entitlement to sell a full-line of alcoholic beverages, to provide video game machines, and to extend hours of operation, the existing restaurant might be converting its operation to more of a sports bar than a restaurant.

CONCLUSION:

Staff acknowledges that the Police Department's concern is reasonable and must be addressed if this application is approved. Staff agrees that game machines could encourage drinking and entertainment activities that would deviate from the primary use of the premises as a full-service restaurant. Staff recommends that the previous condition of approval that prohibits the operation of video games or similar loitering activities to remain as a condition of the approval for this application.

In addition, staff recommends a condition of approval that partition walls of a minimum of five feet in height to be installed to separate the bar area and main dining area, in order to ensure the primary use of the premises to be maintained as a restaurant.

It is staff's conclusion that the findings for approval of the Conditional Use Permit for the on-site consumption of a full-line of alcoholic beverages in conjunction with the operation of the subject restaurant can be made. Availability of a variety of alcoholic beverages at this premises would be an added amenity to the existing clientele of the restaurant and would provide an opportunity the subject restaurant to operate with full-service alcohol like other restaurants in Old Pasadena. The conditions of approval would address potential problems concerned by the Police Department. Therefore, it is staff's recommendation that the project be approved subject to the recommended conditions of approval for this project.

**ATTACHMENT D
LETTERS RECEIVED AND PRESENTED AT THE NOVEMBER 15, 2007
HEARING OFFICER PUBLIC HEARING**

Sheppard, Natsue

From: Julie Thomson [jt@valhallapix.com]
Sent: Wednesday, November 07, 2007 1:52 PM
To: Sheppard, Natsue
Subject: FW: Hooters

Natsue Sheppard
City of Pasadena Planning Department
175 N Garfield Avenue
Pasadena, California
91101

Dear Natsue,

We are writing in connection with Conditional Use Permit # 4924 for 96 -98 East Colorado Boulevard.

We welcome all professionally run business in Old Town Pasadena and we embrace the City's goal of creating a destination entertainment center in Old Town. Our concern is that the request to offer full alcohol service and install video games may be changing the nature of the existing restaurant to that of a tavern or a bar. We would request that the City review the application in the context of adding an additional tavern to Old Town.

Respectfully,

Julie Thomson
On behalf of the Ownership of
44 S Raymond and 70 N Raymond

Valhalla Motion Pictures
70 N Raymond Avenue
Pasadena, California
91103

Sheppard, Natsue

From: Sally Lunetta [Sally@onecolorado.com]
Sent: Tuesday, November 06, 2007 5:52 PM
To: Sheppard, Natsue
Subject: Hooter's CUP 11-07-07
Attachments: Hooters CUP letter OCI 11-07.doc

Hello Natsue-

Attached is a letter that I would like placed in the public record for the Hooter's CUP request tomorrow evening. Thanks very much.

SALLY LUNETTA

one colorado | old pasadena
24 E. union street | pasadena, ca 91103
T 626-564-1066 | F 626-564-8441
sally@onecolorado.com | www.onecolorado.com

November 6, 2007

VIA EMAIL nsheppard@cityofpasadena.net

Ms. Nancy Burke
Hearing Officer
City of Pasadena
175 N. Garfield Avenue
Pasadena, CA 91101

RE: CUP #4507 – Hooters

Dear Ms. Burke:

I represent the owner of One Colorado – a 275,000 s.f. mixed use property at Fair Oaks and Colorado Blvd. Over the past few years we have been working very hard to attract a high-end clientele. Lately we've been concerned with the increased amount of late-night "clubbing" that's been going on in and around Old Pasadena. We spend many thousands of dollars a year cleaning up after the late-night clubbers that abuse our garage by urinating, crashing through exit gates and throwing up. There's no denying that we have a problem with excessive alcohol uses in the area.

We are concerned with the kind of clientele that Hooters serving full-liquor would draw to the area (especially with the electronic games they've requested as well). **It is for this reason that we wholeheartedly agree with the Pasadena Police Department's recommendation for denial.**

We do not want to fix what isn't broken. Hooter's does a fine business with just wine and beer. I'd rather save a full alcohol license for a fine dining establishment that would add to the existing ambience of Old Pasadena. We do not feel Hooter's qualifies as such an establishment, and the granting of this CUP would no doubt prevent a more desirable establishment from locating in Old Pasadena.

It is my experience that you build a desirable, upscale retail destination with ambience and an eclectic mix of goods and services. Adding copious amounts of hard alcohol is like pouring gasoline on a fire. We already have too many full-liquor establishments (13 alcohol uses within 1000 feet of the restaurant seems a bit excessive).

I believe that allowing this CUP will have a detrimental effect not only on our property but on the success of the area as a whole.

We ask that you deny approval of Hooter's request for a CUP for full liquor and electronic gaming.

Sincerely,

Sally Lunetta
Vice President
One Colorado
626-564-1066

CUP #4507 - Hooters

November 7, 2007

Ms Nancy Burke
Hearing Officer
175 N. Garfield Avenue Pasadena, CA 91101

RE: CUP #4507 – Hooters

Dear Ms Burke,

I am currently rehabbing a building I own near the corner of Raymond and Colorado, and I am trying to market that property to more upscale customers to try to compete with other destination retail areas (such as Glendale and Arcadia) surrounding Old Pasadena to the east and the west.

My difficulties in doing so are reflected in my current tenants' complaints of increasing problems due to late-night clubbing in the area. These problems include urination in the alley, vandalism and fighting.

Several of my neighbors are also trying to upgrade their properties. Now, with the Pawn Shop at the corner of Raymond and Colorado leaving, **a once in a lifetime opportunity has opened to upgrade the entire eastern quadrant of Old Pasadena.**

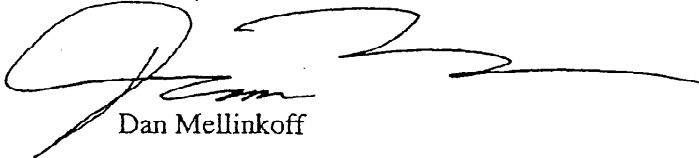
While I have no objection to Hooters Restaurant as it currently operates, I share the Police Department's concern that "the existing restaurant might be converting its operation to more of a sports bar than a restaurant."

According to their staff report there is already an "undue concentration" of alcohol uses in the area. Adding full alcohol to Hooters, with 13 alcohol uses within 1,000 feet of the restaurant, will only aggravate those problems.

I don't believe the Staff's internal barrier recommendations can effectively mitigate the problems caused by adding full alcohol. The problem is with alcohol consumption – not with the internal configuration of Hooters.

I ask that the application for the conversion to hard liquor, and adding electronic games, be denied.

Yours,



Dan Mellinkoff

55-61 E. Colorado Boulevard and 2-8 E. Colorado Boulevard

Sheppard, Natsue

From: Dan Mellinkoff [mellinkoff@gmail.com] mellinkoff@earthlink.net
Sent: Monday, November 05, 2007 3:33 PM (310)489-9986 cell
To: Sheppard, Natsue
Cc: Dan Mellinkoff; Daniel Mellinkoff
Subject: Information for Hooter's CUP for Wednesday evening

Hi Natsue,

I am a nearby property owner affected by the CUP application for Hooters restaurant that is being heard this Wednesday evening by Nancy Burke.

I was wondering if you could send me a copy of the police department report and also a copy of the staff report for this application as soon as they are available?

Thanks very much.

Yours,

Dan

P.S. What is the fax number for sending in responses for this CUP?

Dan Mellinkoff
DLM Property Management
12 South Fair Oaks Avenue
Suite 1B
Pasadena, CA 91105
TEL: 310-489-9986

THIS ELECTRONIC MESSAGE IS INTENDED ONLY FOR THE PERSON TO WHOM IT IS ADDRESSED. If you are neither the intended recipient nor responsible for delivering the message to the intended recipient, note that any dissemination, distribution or copying of this communication is prohibited. If you have received this communication in error, please notify me immediately ... thank you.

11/5/2007

Sheppard, Natsue

From: Wesley [wesley@dayonepasadena.com]
Sent: Tuesday, November 06, 2007 3:00 PM
To: Sheppard, Natsue
Subject: CUP 4507 Public Comment
Attachments: CUP 4507 - Day One Public Comment.doc

Dear Ms. Sheppard,

If you could forward our comments on CUP 4507 to Hearing Officer Nancy Burke I'd be much obliged.

Best regards,

Wesley Reutimann
Day One, Program Coordinator/Grantwriter
175 N. Euclid Ave.
Pasadena, CA. 91101
(626)229-9750
www.dayonepasadena.org

Day One provides an organizational structure by which the cities of Altadena, Pasadena, Sierra Madre and the Greater San Gabriel Valley can reduce the problems associated with alcohol, tobacco, and other drug use. Day One convenes, coordinates, and provides prevention services.



November 6, 2007

Nancy Burke
Hearing Officer
175 N. Garfield Ave.
Pasadena, CA 91101

RE: CUP #4507

Dear Hearing Officer Burke,

Day One would like to note its strong opposition to the granting of a conditional use permit for the sale of hard alcohol and operation of electronic games at the **Hooters Restaurant on 98 E. Colorado Blvd (CUP #4507)**.

Old Town Pasadena has come a long way over the past decade, so much so that it is now a wonderful resource for both locals and visitors, and a point of pride for Pasadena residents. It would be a shame if we jeopardized the strides that have been made in transforming this historic section of Pasadena into a vibrant business district by allowing it to become overpopulated with retailers of hard alcohol.

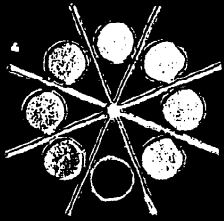
With almost twenty years of service in the communities of Pasadena and Altadena on alcohol related issues, Day One is acutely aware of the negative repercussions an overabundance of alcohol retailers can have on a neighborhood. At present 51 on-site licenses have been approved in a Census Tract the Department of Alcohol Beverage Control has stated should have a maximum of 8.

While Day One remains conscious of and receptive to the needs and concerns of local business owners, it is crucial that the City, with the help of all impacted parties, ensure that a balance is maintained in this district. By allowing yet another establishment to transform itself into more of a "sports bar" than restaurant, Pasadena would take another step away from Old Town's family-friendly nature, and risking a potential increase in alcohol related problems.

Having carefully considered the issues at stake in the Hooters' application, I respectfully request that you deny the Conditional Use Permit. If you have any comments or questions regarding Day One's stance, I can be reached at (626) 229-9750, or at Christy@dayoncpasadena.com.

Best regards,

Christy Zamani
Executive Director
Day One



ANDERSON

BUSINESS TECHNOLOGY

120 EAST COLORADO BOULEVARD • PASADENA, CALIFORNIA 91105-1989
(626) 793-2166 • FAX (626) 793-8747

November 1, 2007

City of Pasadena
Current Planning Division
Planning and Development Department
175 N. Garfield Ave.
Pasadena, CA 91101

Dear Planners:

This is in regard to the "Conditional Use Permit #4924
at Hooters Restaurant, 96-98 E. Colorado Blvd. Pasadena".

A few years ago when Hooters Restaurant was being considered as an establishment at the above address, we wrote to you, not necessarily objecting, but because of the great problems that had occurred in the past in our area, we asked you and the City Council to exercise great caution. You did that in not granting them a full line liquor license. Now they are asking that you change their permit to include that.

We are again asking that you review this request carefully. It is so very important that all areas in Old Pasadena be in balance in their appeal to all groups, younger and older. Everyone's safety and enjoyment is vital for the continuing success of Old Pasadena.

Sincerely,

Donald H. Anderson

DHA/s