

CITY OF PASADENA APPEAL APPLICATION

GENERAL INFORMATION: (Please print)

Date: January 30, 2023

Appellant: Crown City Billiards & Lounge LLC

Mailing Address: 1312 North Lake Avenue

City: Pasadena State: CA Zip: 91104

Phone #: 626-482-6213 Fax # \_\_\_\_\_

Contact Person: Francisco Yanez Phone #: 626-482-6213

E-mail Address of Contact Person: 11707Frank@gmail.com

Represented by: Boyd Hill, Jackson Tidus, 2030 Main Street, 12<sup>th</sup> Floor, Irvine, CA 92614, 949-430-2114

2023 JAN 30 AM 10:45

APPEAL APPLICATION

Zoning Board of Appeals Decision #: ZLR 2022-00085

Date of Decision: January 19, 2023 Appeal Deadline: January 30, 2023

On Appeal from: Zoning Administrator Determination #56

Property Address: 1312 North Lake Avenue, Pasadena, CA 91104

I hereby appeal the decision of the: Zoning Board of Appeals  
To the: City of Pasadena City Council

The decision maker failed to comply with the provisions of the zoning ordinance in the following manner:

See Attachment "Reason for Appeal"

If necessary, please attach additional sheets

Crown City Billiards & Lounge LLC

January 30, 2023

Date of Application

Francisco J. Yanez

By: Francisco J. Yanez

Its: Manager

Activity # _____	Appeal Hearing Date _____
Application Fee: \$ _____	Received by: _____
Date Received: _____	

## REASON FOR APPEAL ATTACHMENT

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APPEAL TO PASADENA CITY COUNCIL OF  
JANUARY 19, 2023 DECISION OF  
CITY BOARD OF ZONING APPEAL NUMBER ZLR2022-00085  
REGARDING CITY ZONING ADMINISTRATOR DETERMINATION #56  
FOR CROWN CITY BILLIARDS & LOUNGE LLC  
1312 NORTH LAKE AVENUE (COUNCIL DISTRICT #2)

Appellant Crown Billiards & Lounge LLC (“*Crown*”—previously operating as “Jerry’s Billiards” dating back to 1985) respectfully appeals to the City of Pasadena (“*City*”) City Council the City’s Board of Zoning Appeals (“*Board*”) Decision of January 19, 2023 (“*Decision*”) upholding the Zoning Administrator’s Determination #56 of Sept. 29, 2022 (“*Determination*”). A true and correct copy of the Board’s January 23, 2023 Notice of Decision (5 pages—including a copy of the Notice of Determination) is attached thereto as Exhibit 1.

The Board’s Decision is in error because the City Staff clearly admits and the evidence clearly establishes the existence of a legal nonconforming use (as defined by City Zoning Code Section 17.71.010(A)) to operate Crown as a billiards hall without a conditional use permit until the hour of 1:00 a.m. [1:30 a.m. on Friday and Saturday] (the “*Use*”), despite the subsequent enactment of City Zoning Code Section 17.40.070.

No evidence has been submitted to establish that the Appellant has discontinued the Use as would be required by City Zoning Code Section 17.71.060(B) to terminate the legal nonconforming use.

The Board’s reliance on a purported “approval” of an August 1, 2017 “Application for Code Compliance Certificate” (“*Application*”) is unjustified and irrelevant because such Application (even if approved) is not a means by which a legal nonconforming use can be terminated under the City’s Zoning Code. Assuming, *arguendo*, the Application could cause termination, which it cannot; the un-contradicted evidence is that Crown’s representative was not the party who filled in the hours of operation on the Application, and the City Staff’s other changes to the Application to the approval portion as well as the mysterious circumstances of its appearance before the Board make the Application insupportable as a means of establishing termination and void under the City’s Zoning Code.

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### 1. THE USE—LEGAL AND NONCONFORMING.

The City Staff expressly admits that the Use is legally nonconforming, not only as to the billiards hall use, but also as to the lack of restriction as to its hours of operation:

**The business is a nonconforming use.** Records indicate that the billiards use has been in operation since January 1985. At the time it was established, **the billiards use was allowed and there were no restrictions on hours of operation applicable to its zoning district (C-2).**

Currently, the subject property is zoned CL-SP-1b (Commercial Limited, North Lake Specific Plan Overlay Subdistrict 1b). A billiards use is no longer permitted in the zoning district; however, it may continue operating as a nonconforming use. (November 17, 2022 Planning and Community Development Staff Report, p. 3 [bold and underline added], a true and correct copy of which is attached hereto as Exhibit 2)

The City Staff finding of nonconforming use in its November 17, 2022 Planning and Community Development Staff Report is further supported by Zoning Administrator's September 29, 2022 Notice of Determination, which refers to express evidence of the Use:

In response to the citation, a "Report on Application for License under Alcoholic Beverage Control Act" dated March 19, 1985 was submitted to the City, by a representative of Jerry's Billiards. This document describes the business as being "... housed in a single-story commercial building, measuring approximately 28' by 128', on a four-lane thoroughfare in a commercial area. Hours of operation are from 11:00 am to 1:00 am, Sunday through Thursday and 11:00 am to 1:30 am, Friday and Saturday. (September 29, 2022 Zoning Administrator Notice of Determination, p. 1)

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The City's Zoning Code explains that legally nonconforming land uses consists of uses "that **were lawful before the adoption or amendment of this Zoning Code**, but which would be prohibited, **regulated or restricted differently under the current terms of this Zoning Code** or under future amendments." (Zoning Code, § 17.17.010(A) [bold & underline added])

Thus, according to the City's own above definition and above quoted City Staff language, **a legal nonconforming use pertains not only to the billiards use but also to the hours restrictions at the time of the use commencement**. Thus, as a legally nonconforming use, the post-1985 enacted Zoning Code Section 17.40.070 time restriction on hours of operation does not apply to Crown.

### 2. **NO EVIDENCE OF TERMINATION OF THE USE.**

Legal nonconforming uses can only be terminated in one of three manners: (A) violation of "applicable" law; (B) discontinuance of the nonconforming use; (C) abatement by operation of law. (City Zoning Code, § 17.71.060)

#### a. **There is No Evidence of Violation of "Applicable" Law**

City Staff does not contend that there has been a change of the nonconforming use of operation of the billiards hall until the hour of 1 a.m. [1:30 a.m. on Fri/Sat] under City Zoning Code Section 17.71.060(A)(3)-(4)

City Staff also does not contend that there has been a revocation, termination, or suspension of any license or permit to operate the nonconforming use under City Zoning Code Section 17.71.060(B)(2) because, as admitted by City Staff, no such license or permit was required at the time the nonconforming use of operation of a billiards hall until 1:00 a.m. [1:30 a.m. on Fri/Sat] was established in 1985.

However, City Staff astoundingly, in express contradiction of the above-quoted language from page 3 of the November 17, 2022 Planning and Community Development Staff Report and in express contradiction of the above-quoted language of its own Zoning Code about the hours of operation regulation/restriction argues that Crown (or its predecessors) somehow violated "applicable" law because it would have needed to provide evidence that the original hours of operation were "approved" by the City by means of a conditional

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use permit. (November 17, 2022 Planning and Community Development Staff Report, p. 3)

The absurdity of City Staff's argument was not lost on Chair David Coher during the Board's hearing on November 17, 2022, as illustrated by the following exchange between Chair Coher and Planning Manager Luis Rocha:

Chair Coher: You're asking them to provide evidence that they got approval from the City, to do something that didn't require approval by the City?

Luis Rocha, Planning Manager: That, that's correct, ([https://pasadena.granicus.com/player/clip/6492?view\\_id=35&redirect=true&h=eab1ffb62ae9684a4e9dfcde526e2e67](https://pasadena.granicus.com/player/clip/6492?view_id=35&redirect=true&h=eab1ffb62ae9684a4e9dfcde526e2e67) [Video Recording at 23:46 minute mark])

To be perfectly clear, a subsequent violation of "applicable" law cannot be established for a legal nonconforming use based on the same restriction that was previously lacking as the basis for the non-conforming use, under the City Zoning Code's own definition found in Section 17.71.010(A). In other words, the subsequent hours restriction of City Zoning Code Section 17.40.070 is not "applicable" law that can form the basis for an alleged "violation" of law because the lack of such an hours restriction is part of the very basis for the determination of legal non-conforming use. (See *Bauer v. City of San Diego* (1999) 74 Cal.App.4th 1281, 1285, fn. 1 [A legal nonconforming use is one that existed lawfully before a zoning restriction became effective and that is not in conformity with the ordinance when it continues thereafter. Grandfathered businesses are nonconforming uses that are not required to seek permits under local zoning ordinances enacted after they were in business.])

Under the City Staff's position, Zoning Administrator Determination and Board of Zoning Appeals Decision, there can never be a legal nonconforming use under City Zoning Code Section 17.71.010(A) because the subsequent enactment of a restriction will *per se* cause a violation of the legal nonconforming use and force the property owner to immediately seek new permitting. The City Council should reject this argument as absurd on its face.



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**b. There is No Evidence of Discontinuance of the Use**

In order for a legal nonconforming use to be terminated by discontinuance under Zoning Code Section 17.71.060(B), there must be discontinuance of the legal non-conforming use for a “continuous period of at least 12 months.” (Zoning Code, § 17.71.060(B)(1)) Any such discontinuance must be supported by evidence of discontinuance/abandonment. (Zoning Code, § 17.71.060(B)(3))

City Staff has presented no evidence of discontinuance of the Use, such as removal of the billiard tables or change of hours of the Use for a continual period of 12 months that would support discontinuance of the Use.

Although Crown is not required to provide evidence of continual operation of the Use, because the City has not provided any evidence of its discontinuance, evidence submitted by Appellant supports the “continual operation” of the Use according to the pre-existing regulation/restriction. (See Zoning Code, § 7.71.060(B)(4))

On March 21, 2011, when the City was considering issues of crime caused mainly by the homeless population in the Block 5 Area, the City’s Chief of Police (then Phillip L. Sanchez) stated in a power point presentation to the City Council that Jerry’s Billiards was one of only two “businesses in the Block 5 area that are legal non-conforming businesses.” (March 21, 2011 Pasadena Police Department Report and Overview of “Public Safety Concerns in the Block 5 Area,” p. 7, found at <https://www.cityofpasadena.net/wp-content/uploads/sites/31/2011-03-21-Public-Safety-Committee-Agenda.pdf?v=1606867200305>, a true and correct copy of which is attached hereto as Exhibit 3)

Clearly, the Chief of Police was relying upon some City record in confirming that what was then called Jerry’s Billiards’ operating hours were non-conforming. Such a record would have been in the possession of the Police Department rather than the Planning and Community Development Department, as “poolroom” permits are issued by the Chief of Police under Municipal Code Sec. 5.32.110.

Also, according to the Declaration of Francisco Yanez, “Jerry’s Billiards was operating from the hours of 11 a.m. to 1:00 a.m [1:30 a.m. Fri/Sat] when Crown purchased the business and has continued to operate with those hours under Crown since Crown purchased the business in 2013.” (January 29, 2023 Francisco

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Yanez Declaration, ¶ 2, a true and correct copy of which is attached hereto as Exhibit 4)

Lacking any evidence of discontinuance of the Use for a continuous period of more than 12 months, the Board's decision is clearly lacking in evidence and clearly in error.

c. **There is No Evidence of an Abatement Ordinance that would Terminate the Use by Operation of Law**

The Board's decision does not rely upon termination by operation of law by abatement. In order to terminate a legal nonconforming use by operation of law, there must be an amendment to the City's Zoning Code requiring its abatement within the time frames set forth in City Zoning Code Section 17.71.060(C), Table 7.1. No such amendment has occurred with respect to the Use.

In March 2011, after considering whether to amend the Zoning Code to abate the non-conforming hours, which abatement would need to be City-wide, and the low number of police service calls, the vast majority of which were not attributed to any legal nonconforming business, the Police Department recommended against amendment of the City's Zoning Code because "Abating hour of operation will not solve problems that occur from 7 am to 10 pm." (Exhibit 3, March 21, 2011 Pasadena Police Department Report and Overview of "Public Safety Concerns in the Block 5 Area," pp. 10-15, quote from p. 14)

The City Staff has presented no evidence of an ordinance to amend the Zoning Code to abate the non-conforming hours after a potential ordinance was last considered in 2011. Thus, none of the three means of terminating the Use as a legal nonconforming use have occurred, including no City attempt to terminate by abatement.

3. **THE APPLICATION IS NOT GROUNDS FOR TERMINATION OF THE USE, HAS NOT BEEN AUTHENTICATED, AND ITS APPROVAL IS HIGHLY SUSPECT.**

Realizing that the Zoning Administrator's Determination that a conditional use permit would be required is contrary to the City's own Zoning Code definition of legal nonconforming use and contrary to the law of nonconforming use as set forth in the *Bauer* decision, the Board pivoted in its decision to rely instead upon an alleged approval of the Application.

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As explained above, the Board's reliance on the Application is unjustified and irrelevant because the Application, even if approved by the City, is not a means by which a legal nonconforming use can be terminated. (Zoning Code, § 17.71.060)

Furthermore, the City cannot rely upon the Application to determine the hours of operation, because the City cannot authenticate that the hours portion of the Application was filled out by Crown's representative.

According to Mr. Yanez, "I did not fill out the hours portion of the form. The hours portion is not my handwriting. Nor did I authorize anyone else on behalf of Crown or at the City to fill out the hours portion of the form. The hours portion of the Application makes no sense to the operation of Crown, because it would never open at the hour of 9 a.m. and would never close by the hour of 10 p.m." (January 29, 2023 Declaration of Francisco Yanez, ¶ 3, a true and correct copy of which is attached hereto as Exhibit 4)

An independent incontrovertible handwriting analyst confirms that the hours portion of the Application was filled out by someone else, not by Mr. Yanez. (December 14, 2022 Q9 Consulting Handwriting Analysis by Michael Wakshull, a true and correct copy of which is attached hereto as Exhibit 5)

Finally, the circumstances of the appearance of the Application, and the City's apparent crossing out of the disapproval and whiting out of change of the prior signature lead to the conclusion that the Application in that form was not approved by City Staff and therefore not produced initially in response to public records requests by Crown.

On October 14, 2022, James Lawson, on behalf of Crown, made a Public Records Act request for all materials related to code compliance inspections CCI-2017-02566.

On October 26, 2022, James Lawson, on behalf of Crown, received a response from Maiya Sims that the City's search revealed no records responsive to the request and another response from Elidia Gonzalez that stated that Planning found no information for the request.

On October 27, 2022, James Lawson, on behalf of Crown, received a response that the Finance Department found no records related to the request.



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The purportedly approved Application was somehow "located" between October 27, 2022 and November 10, 2022, which purportedly approved Application the City's own website states "DO NOT USE." And the City's website states "DO NOT USE" for good reason, because the Application in a prior form was apparently not approved by the City as shown by the changes on the Application. (James Lawson Declaration, a true and correct copy of which is attached hereto as Exhibit 6)

The Application shows that the original signature by the City Staff was whited out and that the prior disapproval checked box was crossed out and the approval box was instead then subsequently checked. Given that the hours portion was not filled out by Crown's representative or authorized to have been filled out by him, it seems that the City Staff changes to the Application form might have been manipulated in connection with writing in the hours on the Application form at a later time when the disapproval was crossed out and a new signature was added.

Certainly, the City cannot rely upon the doctrines of waiver or of equitable estoppel to establish that the legal nonconforming use has been terminated. Neither waiver nor estoppel is an accepted means of termination of a nonconforming use under the law or the City's Zoning Code.

The City certainly did not rely upon either doctrine, because the legal nonconforming use continued on for several years without interruption or claim of violation by the City. A knowing and intentional waiver cannot be established by the language on the Application form. The City has not provided any evidence to establish reasonable reliance on the Application form to its detriment, especially in light of the fact that the City's own website says "DO NOT USE" with respect to the Application form as purportedly approved.

Most significantly, the City Zoning Code Section 17.61.020 prevents the application of either waiver or estoppel *because it requires the Application and the City's pretended approval thereof in the form presented by the City to be deemed void, because it was based upon false, incomplete or misleading information about the actual hours of operation of Crown.* (Zoning Code, § 17.61.020(B))

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In summary regarding the Application as purportedly approved by the City, the Application and the City's purported approval thereof, it is a big red herring without legal effect that should be rejected outright by the City.

#### 4. CONCLUSION

The City has problems with homelessness and transiency which potentially are the cause of crime in the Block 5 area. But that is not a problem which is attributable or has been found attributable to the business patrons of Crown. The Crown patrons are serious white collar billiards players who compete regionally and nationally in billiards tournaments. If anything, the presence of such patrons in the parking area adjacent to Crown is a deterrent against transients and crime during its extended hours of operation.

Crown understands that City Staff and local residents want to do something about transients and have a safer neighborhood, but that will not come about by kicking out a good neighbor who has been there for years and has contributed significantly to the City's tax base and good will. Shuttering a viable business because a local HOA with NIMBY board members decides that it doesn't want that business operating, and doing so by forcing an illegal untimely abatement by fiat in violation of civil rights, is extremely bad policy, and is the wrong means by which to garner political support for the City Council.

Please also consider the costs. If Crown is forced to close by 10 p.m., it will lose its business clientele, who must come after work hours to compete in billiards tournaments. If Crown closes because of lost clientele, Francisco Yanez will lose the ability to support his two special needs children. This is not the face that the City Council wants to present to the public.

Crown has reached out to the surrounding neighbors through a community forum. But despite Crown's entreaties, the neighbors have refused to continue discussions about solutions to the neighbor concerns. Crown has been operating here before the vast majority of those neighbors moved in. Those neighbors were aware that they were moving in next to Crown with its operating hours. This is not a game of survivor where the local HOA gets to kick someone off the island. The Block 5 neighborhood should pull together for common good, and the City Council and City Staff should be at the forefront of setting the example.

# EXHIBIT 1



CITY OF PASADENA  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
COUNCIL DISTRICT #2

January 23, 2023

Frank Yanez  
c/o Crown City Billiard's & Lounge  
1312 North Lake Avenue  
Pasadena, CA 91104

RE: **Zoning Administrator's Determination #56**  
**1312 North Lake Avenue**  
**Council District #2**

**ZLR2022-00085**

Dear Mr. Yanez:

The Appeal of the **Zoning Administrator's Determination #56** at **1312 North Lake Avenue** was considered by the **Board of Zoning Appeals** on **January 19, 2023**.

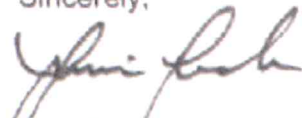
**ZONING ADMINISTRATOR DETERMINATION #56: Appeal of a determination by the Zoning Administrator that the hours of operation for the business, Crown City Billiards & Lounge (aka Jerry's Billiards), are between 7:00 am and 10:00 pm, pursuant to Section 17.40.070 (Limited Hours of Operation) of the Zoning Code.**

At the conclusion of the public hearing, a motion was made to uphold the Zoning Administrator's Determination that the hours of operation for the business, Crown City Billiards & Lounge (aka Jerry's Billiards), are between 7:00 am and 10:00 pm. The motion resulted in a 5-0 vote by the members present. As a result, action was taken to **uphold** Zoning Administrator Determination #56.

You are hereby notified that, pursuant to Pasadena Municipal Code Chapter 17.72, any person affected or aggrieved by the decision of the Board of Zoning Appeals has the right to appeal this decision within **ten days (January 30, 2023)**. The effective date of this decision will be **January 31, 2023**. Prior to such effective date, a member of the City Council may request that it be called for review to the City Council. 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 \$256.47. The Appeal fee for non-profit community-based organizations is \$128.24.

For further information regarding this case please contact me at (626) 744-6747 or [lrocha@cityofpasadena.net](mailto:lrocha@cityofpasadena.net).

Sincerely,



Luis Rocha  
Planning Manager

Enclosure: Attachment A (Zoning Administrator Determination #56)

xc: City Manager, City Clerk, City Council, City Council District Liaison, Building Division, Public Works, Design and Historic Preservation, Department of Transportation, Code Compliance, Case File, Decision Letter File, Planning Commission (9)

**ATTACHMENT A  
ZONING ADMINISTRATOR'S DETERMINATION LETTER  
DATED SEPTEMBER 29, 2022**





PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION

**VIA REGULAR AND CERTIFIED MAIL**

September 29, 2022

Charles G. Stanislawski  
Stanislawski & Company, Inc.  
729 Mission Street, Suite 100  
South Pasadena, CA 91030

SUBJECT: 1312 N. Lake Avenue, Jerry's Billiard – Hours of Operation

Dear Mr. Stanislawski:

On April 25, 2022, citation CTP2022-00443 was issued by the City's Code Compliance Division to the subject business, Jerry's Billiards, located at 1312 N. Lake Avenue, for operating after 10:00 pm and in violation of Pasadena Municipal Code Section 17.40.070 (Limited Hours of Operation). This section establishes limited hours of operation for certain commercial uses that are located within certain proximity to a residential zoning district. Specifically, commercial uses on a site located within 150 feet of a residential zoning district may only operate between the hours of 7:00 am and 10:00 pm by-right; and may only operate between the hours of 10:00 pm and 7:00 am subject to the issuance of a Conditional Use Permit.

The subject property at 1312 N. Lake Avenue is located adjacent to, and within 150 feet of a residential zoning district to the east. As such, Jerry's Billiards is subject to the limited hours of operation pursuant to Section 17.40.070, unless a Conditional Use Permit is approved. A review of City records determined that no Conditional Use Permit, or any other City document, has been approved to allow the hours of operation at this property to occur after 10:00 pm and before 7:00 am.

In response to the citation, a "Report on Application for License under Alcoholic Beverage Control Act" dated March 19, 1985 was submitted to the City, by a representative of Jerry's Billiards. This document describes the business as being "... housed in a single-story commercial building, measuring approximately 28' by 128', on a four-lane thoroughfare in a commercial area. Hours of operation are from 11:00 am to 1:00 am, Sunday through Thursday and 11:00 am to 1:30 am, Friday and Saturday. There is no fixed bar. Off-street parking is provided for forty cars. Entertainment consists of a juke-box, recorded music, pool tables, and coin-operated game machines. Applicants understand they may not sell, serve, or allow consumption of alcoholic beverages during the restricted hours, per the attached conditions, though they are open for business during those hours."

Although this report provides a description of the premises, including the hours of operation, the report does not constitute an approval from the City of Pasadena, specifically as it relates to operating hours. As mentioned above, there are no City records indicating approval of the hours beyond those permitted by-right under Section 17.40.070 (Limited Hours of Operation). This letter is to inform you that the business is only permitted to operate between 7:00 am and 10:00 pm daily.

You are hereby notified that, pursuant to PMC Chapter 17.72 (Appeals), any person that believes the Zoning Administrator's determination, on the applicability of the provisions of the Zoning Code, to be in error has the right to appeal this decision within ten days (October 10, 2022). Any appeals will be heard by the Board of Zoning Appeals. The effective date of this determination will be October 11, 2022. The regular appeal fee is \$256.47.

If you have any questions regarding this correspondence you may contact me by telephone at (626) 744-6726 or email at [byu@cityofpasadena.net](mailto:byu@cityofpasadena.net).

Sincerely,

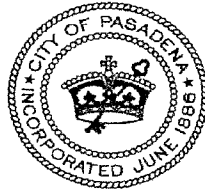


**Beilin Yu**  
Zoning Administrator

cc: Jennifer Paige, Acting Director of Planning & Community Development  
Israel Del Toro, Neighborhood and Business Services Administrator  
Theresa Fuentes, Assistant City Attorney  
David M. Reyes, Acting Assistant City Manager  
Darla Dyson, District Liaison, Office of Council Member Williams

# EXHIBIT 2

## ATTACHMENT A



### PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

**DATE:** NOVEMBER 17, 2022

**TO:** BOARD OF ZONING APPEALS

**FROM:** BEILIN YU, ZONING ADMINISTRATOR

**SUBJECT:** ZONING ADMINISTRATOR DETERMINATION #56: APPEAL OF A DETERMINATION BY THE ZONING ADMINISTRATOR THAT THE HOURS OF OPERATION, FOR THE BUSINESS JERRY'S BILLIARDS, ARE BETWEEN 7:00 AM AND 10:00 PM PURSUANT TO PMC SECTION 17.40.070 (LIMITED HOURS OF OPERATION).

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#### **RECOMMENDATION:**

It is recommended that the Board of Zoning Appeals:

1. Uphold the Zoning Administrator's determination.

#### **BACKGROUND:**

What is before the Board of Zoning Appeals is an appeal of a determination (Attachment A) made by the Zoning Administrator, on September 29, 2022, regarding the operating hours of Jerry's Billiards, located at 1312 N. Lake Avenue. The Zoning Administrator determined that the hours of operation for the business to be between 7:00 am to 10:00 pm, as required by Zoning Code Section 17.40.070 (Limited Hours of Operation) (Attachment B). This section establishes limited hours of operation for certain commercial uses that are located within certain proximity to a residential zoning district.

The Zoning Administrator's determination was initiated in response to citation CTP2022-00443 (Attachment C), issued by the City's Code Compliance Division to the subject business. The citation issued indicated that the business was operating after 10:00 pm and in violation of Section 17.40.070 (Limited Hours of Operation); the corrective remedy was for the business to end operating hours at 10:00 pm.

On October 6, 2022, the appellant, Crown City Billiards & Lounge (also known as: Jerry's Family Billiards), submitted an appeal of the Zoning Administrator's determination (Attachment E), citing a disagreement with the decision that was made. The appeal states that the business is a nonconforming business and is not subject to Section 17.40.070.

## **ANALYSIS:**

### Limited Hours of Operation

Zoning Code Section 17.40.070 states that commercial uses on a site located within 150 feet of a residential zoning district may only operate between the hours of 7:00 am and 10:00 pm by-right; and may only operate between the hours of 10:00 pm and 7:00 am subject to the issuance of a Conditional Use Permit.

In this case, Jerry's Billiards is on a site that abuts a residential zoning district immediately to the east and it does not have a Conditional Use Permit to operate between the hours of 10:00 pm and 7:00 am.

### Code Compliance Certificate

After the issuance of the Zoning Administrator Determination on September 29, 2022, an approved Code Compliance Certificate was located for the existing business. A Code Compliance Certificate is a form used to verify if a use complies with the Zoning Code and is part of the business license process. The form includes information about, but not limited to, land use, parking spaces, and hours of operation.

As part of the business license application, the appellant submitted a Code Compliance Certificate (Attachment D). The form is dated August 1, 2017 and is signed by the appellant. In the form, the appellant indicated that the hours of operation for the business would be 9:00 am to 10:00 pm. The form was approved by the Current Planning Section of the Planning Division on August 18, 2017.

The hours of operation specified in the approved form are consistent with Zoning Code Section 17.40.070.

### Appeal

In the appeal, the appellant states that the business is a nonconforming use and is not subject to Section 17.40.070. The appeal also includes a PowerPoint presentation titled "Public Safety Concerns in the Block 5 Area", which was presented to the City's Public Safety Committee on March 21, 2011. The presentation was prepared and presented by the Pasadena Police Department, in which Jerry's Billiards was described as a nonconforming use.

Separate from the appeal application, and in response to the citation issued by the Code Compliance Division, a representative of the appellant submitted a form from the California Alcoholic Beverage Control dated March 19, 1985. The form, titled "Report on Application for License under Alcoholic Beverage Control Act", provides a description of the business operations, and indicates that the "Hours of operation are from 11:00 am to 1:00 am, Sunday through Thursday and 11:00 am to 1:30 am, Friday and Saturday." This form was submitted to demonstrate to City staff that the business was operating beyond

10:00 p.m. Staff will note that this form does not constitute an approval from the City of Pasadena.

### Response to Appeal

The business is a nonconforming use. Records indicate that the billiards use has been in operation since January 1985. At the time it was established, the billiards use was allowed and there were no restrictions on hours of operation applicable to its zoning district (C-2).

Currently, the subject property is zoned CL-SP-1b (Commercial Limited, North Lake Specific Plan Overlay subdistrict 1b). A billiards use is no longer permitted in the zoning district; however, it may continue operating as a nonconforming use.

However, as it relates to the hours of operation, the applicant has not provided documentation that the City approved hours of operation between 10:00 pm and 7:00 am. Further, any ability to operate with nonconforming hours was abandoned when the appellant submitted the Code Compliance Certificate form and indicated that the business would operate from 9:00 am to 10:00 pm. The 2017 form was relied on by City staff to support the issuance of the Code Compliance Certificate. The approved hours of operation are consistent with Zoning Code Section 17.40.070; where a business may only operate between the hours of 7:00 am and 10:00 pm by-right when the site is within 150 feet of a residential zoning district.

A Conditional Use Permit would need to be approved to operate between the hours of 10:00 pm and 7:00 am. As of the date of this report, a Conditional Use Permit application has not been submitted.




**CONCLUSION:**

The Zoning Administrator has considered the appeal and has determined that the Determination was correctly made. The approved Code Compliance Certificate form, submitted by the appellant in 2017, approved operating hours for the business consistent with Zoning Code Section 17.40.070 (Limited Hours of Operation). Therefore, it is recommended that the Board of Zoning Appeals uphold the Zoning Administrator's Determination that the hours of operation for Jerry's Billiards are between 7:00 am to 10:00 pm, daily.

Respectfully Submitted,

Prepared by:

  
\_\_\_\_\_  
Luis Rocha  
Planning Manager

  
\_\_\_\_\_  
Beilin Yu  
Zoning Administrator

Attachments:

- Attachment A – Zoning Administrator Determination, dated September 29, 2022
- Attachment B – Zoning Code Section 17.40.070 (Limited Hours of Operation)
- Attachment C – Warning Citation CTP2022-00443, dated April 25, 2022
- Attachment D – Approved Code Compliance Certificate form
- Attachment E – Appeal Application, dated August 10, 2022

# EXHIBIT 3



Police Department

# **Public Safety Concerns In The Block 5 Area**

Report and Overview

March 21, 2011

Phillip L. Sanchez  
Chief of Police





## Report to Public Safety Committee

Police Department

- **City staff and residents met on August 5, 2010 to discuss quality of life and crime issues in the Block 5 area.**
  - **30 Residents**
  - **Police Department**
  - **City Prosecutor**
  - **Transportation**
  - **Public Works**
  - **Code Compliance**



## Report to Public Safety Committee

Police Department

- ▶ **Identified issues were brought forward that included:**
  - ▶ **Illegal dumping**
  - ▶ **Loitering**
  - ▶ **Noise/Music**
  - ▶ **Drug sales**
  - ▶ **Traffic**
  - ▶ **Bad equipment or access gates**



## Report to Public Safety Committee

Police Department

City staff moved quickly to address the issues that were presented at the meeting.

Many of the issues have been resolved and are being monitored by respective city staff and departments.





## Report to Public Safety Committee

Police Department

- \* City staff met with business owners and discussed their issues/complaints related to the Block 5 area.
  - > Identified illegal dumping.
  - > Transient Issues.



## Report to Public Safety Committee

Police Department

- During the citizen group meeting, one business was identified as the potential source of the residents' complaints.
  - **King King's Barber Shop**
    - Late hours
    - Congregating outside the business
- It was determined that the business is a legal non-conforming business that began operating at a time during which the zoning code did not impose operation restrictions.



## Report to Public Safety Committee

Police Department

- Councilmember McAustin asked city staff to examine:
  - The number of businesses with non-conforming hours of operation.
  - The correlation of crime and quality of life issues as a result of those businesses.
  
- King King's Barber Shop
- Jerry's Billiards
  - These are the only businesses in the Block 5 area that are legal non-conforming businesses.



## Report to Public Safety Committee

Police Department

- Crime analysis of the Block 5 area revealed.
  - 38 incidents of police service in the general area from January 1, 2010 – September 15, 2010.
  - Of those, 17 reflect King King's Barber Shop as the location of occurrence.
  - Only 7 could be directly linked to the business.





## Report to Public Safety Committee

Police Department

### Code Enforcement and Zoning

- Zoning code limits hours of operation from 7 am to 10 pm for commercial uses within 150' of an R district; adopted in 1985.
- Code has exemptions for some areas and uses.
- City could amend zoning code to abate the non-conforming hours.





## Report to Public Safety Committee

Police Department

- Need to perform a citywide survey of uses to determine which have non-conforming hours.
- Notify all business owners.
- Amendment would establish a time frame for abatement.



## Report to Public Safety Committee

Police Department

### **Conclusion**

- Low number of service calls does not support a determination of nuisance activities.
- Zoning Code Amendment.

### **Strengths**

- Brings uniformity to all commercial uses subject to the hours of operation.



## Report to Public Safety Committee

Police Department

### Weaknesses

- Need time and staff resources to survey businesses, establish time period for a sunset schedule and amend zoning code.
- Additional time and cost associated with future enforcement.
- Abatement must be citywide; can't be limited to Block 5.

*Handwritten signature*



## Report to Public Safety Committee

Police Department

- CUP fees are waived in the Northwest allowing businesses that are subject to sunset provisions to get a CUP at no cost.
- Abating hour of operation will not solve problems that occur from 7 am to 10 pm.



## Report to Public Safety Committee

Police Department

### **Recommendation:**

- Continue enhanced police presence in Block 5.
- Do not amend zoning code.
- Continue staff meetings with Block 5 merchants and area residents in order to address issues and implement solutions.



# Report to Public Safety Committee

Police Department

**Questions??**

2024-2025

# EXHIBIT 4

## DECLARATION OF FRANCISCO YANEZ

I, Francisco Yanez, declare:

1. I am the managing member of Crown City Billiards & Lounge LLC, a California limited liability company. I am also the primary operator of the Crown City Billiards hall and accessory uses associated therewith located at 1312 North Lake Avenue, Pasadena, California. I have been operating the business since approximately 2013 when I purchased Jerry's Billiards and changed its name to Crown City Billiards.

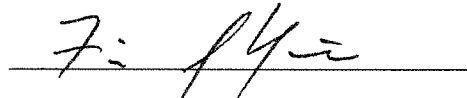
2. Jerry's Billiards was operating from the hours of 11 a.m. to 1:00 a.m [1:30 a.m. Fri/Sat] when Crown purchased the business and has continued to operate with those hours under Crown since Crown purchased the business in 2013.

3. Regarding the August 1, 2017 Application for Code Compliance Certificate presented by the City at the Board of Zoning Appeals hearing, I have never seen the Application signed by the City in the form presented. I did not fill out the hours portion of the form. The hours portion is not my handwriting. Nor did I authorize anyone else on behalf of Crown or at the City to fill out the hours portion of the form. The hours portion of the Application makes no sense to the operation of Crown, because Crown would never open at the hour of 9 a.m. and would never close by the hour of 10 p.m.

4. Crown supports my family, which includes two special needs children. If Crown cannot continue to operate at the hours specified in paragraph 2 above, Crown will lose its clientele, which are comprised of mostly white collar workers who come after work hours to compete in billiards tournaments, and I will lose my business and the means to sustain my special needs children. Crown's clientele are respectful law abiding citizens who come to play in tournaments and who frequent other businesses in the City of Pasadena such as its restaurants. Crown's clientele have not been the cause of civil or criminal disturbances. The vast majority of neighboring residents support Crown. Those few who are engaging in misguided attempts to shut down my business should instead focus their efforts together with me to help address problems caused by transients in the Block 5 neighborhood so that we can all have a better neighborhood.



I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge. Executed this 29th day of January 2023 in Pasadena, California.

  
Francisco Yanez

# EXHIBIT 5

DECLARATION OF JAMES M. LAWSON, AICP

I, James M. Lawson, AICP, declare:

1. I am a land use planner certified by the American Institute of Certified Planners and have been assisting Crown City Billiards & Lounge LLC in its hearings before the City of Pasadena Zoning Administrator and Zoning Board of Appeals.

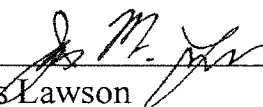
2. On October 14, 2022, I made a Public Records Act request for all materials related to code compliance inspections CCI-2017-02566.

3. On October 26, 2022, I received a response from Maiya Sims that the City's search revealed no records responsive to the request and another response from Elidia Gonzalez that stated that Planning found no information for the request.

4. On October 27, 2022, I received a response that the Finance Department found no records related to the request.

5. The purportedly approved August 1, 2017 "Application for Code Compliance Certificate" was somehow "located" between October 27, 2022 and November 10, 2022, which purportedly approved Application the City's own website states "DO NOT USE." The City's website states "DO NOT USE" for good reason, because the Application in a prior form was apparently not approved by the City as shown by the changes on the Application.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge. Executed this 29th day of January 2023 in Laguna Beach, California.

  
\_\_\_\_\_  
James Lawson