

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).

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

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

