



Planning Commission Staff Report

June 11, 2008
Item 5.a.

SUBJECT: PCUP-217

APPLICANT: Michael Hughes, Baci Café

PROPERTY OWNER: JV Properties

PURPOSE: Application for a conditional use permit to allow alcohol to be served after 10:00 p.m. at Baci Café.

GENERAL PLAN: Retail, Highway, and Service Commercial; Business and Professional Offices

ZONING: Central Commercial (C-C), Downtown Revitalization, Core Area Overly District

LOCATION: 500 Main Street

ATTACHMENTS:

1. Exhibit B, Draft Conditions of Approval
2. Exhibit A, Narrative, Pictures, Floor Plan, and Menus, dated "Received April 10, 2008"
3. Exhibit C, Location Map
4. Exhibit D, Letter from the Pleasanton Downtown Association, dated "Received April 25, 2008"
5. Exhibit E, Photographs of Trash Enclosure

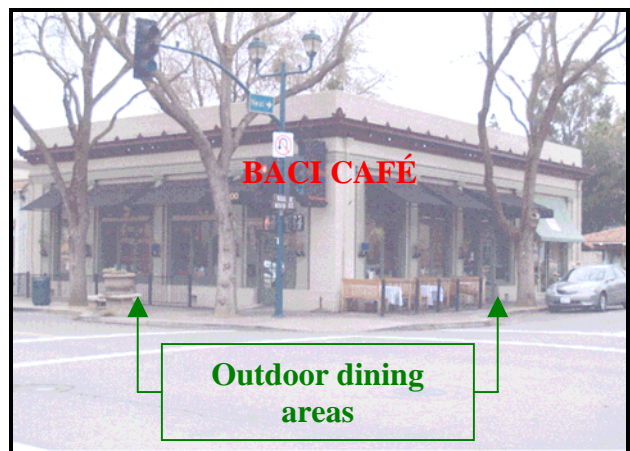
BACKGROUND

Michael Hughes, Baci Café, has submitted an application for a conditional use permit to allow alcohol service past 10:00 p.m. The Pleasanton Municipal Code allows restaurants to serve alcohol until 10:00 p.m. without a conditional use permit. The applicant has been in business on Main Street since January 2003. Baci Café provides outdoor seating that is located on both Main and Neal Streets permitted by the City in February 2003.

Restaurants in the C-C District serving alcohol after 10:00 p.m. are considered “bars” and, thereby, are required to obtain a conditional use permit. Therefore, the Planning Commission is requested to consider this application.

SITE DESCRIPTION

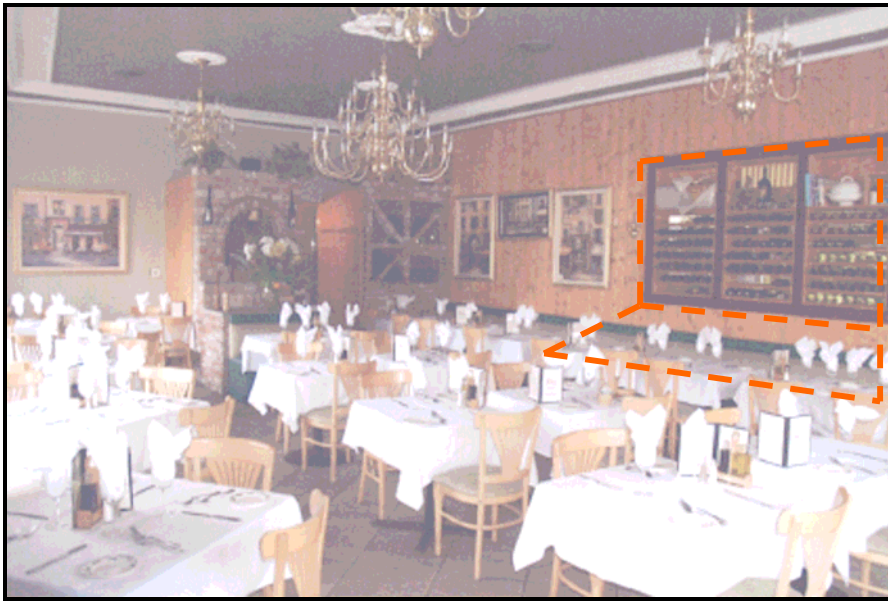
The subject site is an approximately 3,822 square-foot parcel at the northwest corner of Main and Neal Streets. Baci Café is approximately 2,600 square-feet. The project site is located in Downtown Pleasanton in an area of mixed land uses, which is typical of the C-C District. The site is surrounded by retail, commercial businesses, and restaurants. Many of these restaurants also provide alcohol after 10:00 p.m. On-street parking is available on Main and Neal Streets.



PROJECT DESCRIPTION

The restaurant is approximately 2,600 square-feet which can seat a maximum of 66 in the dining room area and 24 in the outdoor dining area along Main and Neal Streets. The existing use is a full service restaurant; however, in order to sell alcohol to restaurant patrons after 10:00 p.m. a conditional use permit is required per the Pleasanton Municipal Code which then defines the use as a bar.

The current hours of operation for Baci Café are Monday through Sunday from 11:30 a.m. to 10:00 p.m. The applicant would like to extend the restaurant hours to 12:00 a.m. and offer a bar menu beginning at 9:30 p.m. (Exhibit A). The restaurant plays classical/light jazz music for its patrons on speakers inside the dining room area only. As shown in the picture below, and Exhibit A, the amount of available seating would be decreased. The applicant is proposing to remove tables below the wine racks and convert that area into a bar. The applicant is proposing 7 bar stools for the bar area. The Building and Safety Division and Fire Department have reviewed the proposal and noted that there will not likely be an increase in room capacity. Tenant improvement plans and permits would be required for the restaurant improvements to ensure that the area around the bar does not block the access aisle.



Wine rack to be replaced with service bar and tables to be replaced with counter and stools

Proposed Bar Location

Currently, the restaurant has a total of 22 employees with an average of 10 to 14 employees during the evening shifts or busy nights. The applicant does not intend to increase the number of employees with the new bar area.

Menus

During the extended hours the restaurant will provide a bar menu for its patrons. The menu will include starter items with entrée meals of seafood, pasta, steak, and sandwiches. The bar menu is a condensed version of the dinner menu with the exception that they will not be serving chicken or veal during the extended hours. The applicant has provided a detailed lunch, dinner, and bar and beverage menu for the Commission's convenience in Exhibit A.

ANALYSIS

Restaurants that serve alcohol past 10:00 p.m. are defined by the Pleasanton Municipal Code as "bars" requiring a conditional use permit (CUP). Conditional uses are uses that, by their nature, require individual review to ensure that impacts associated with their use will be minimal and are subject to appropriate conditions to ensure that concerns in the operation of the CUP would be mitigated.

Land Use

One of the primary concerns in reviewing a conditional use permit application is the effect of a proposed use on surrounding uses. The establishment is located in a commercially zoned area of Downtown Pleasanton, containing mixed land uses including retail, office, hotel, and residential uses. The closest residential neighborhood is located approximately 471 feet from the subject

site, on the west side of Peters Avenue. Staff is sensitive to potential land use conflicts in the Downtown between existing residents living near, or in the commercially zoned part of Downtown, and commercial uses which may have “spill-over” effects on those residents; such as parking, hours of operations, noise, or similar issues. The City has looked carefully at the specifics of proposed operations and has tried to achieve a balance between maintaining the quality of life of Downtown’s residents and the objective of having a vibrant Downtown with businesses and activities which draw people to the area both during the day and at night.

Staff notes that while historically some of the bars in the Downtown area have created problems from time to time, due to disorderly patrons, this has tapered off in recent years as many of the older bars have been replaced by dining establishments with bars. Thus, staff believes that the proposed bar within an existing restaurant where beer and wine are currently served between the hours of 11:30 a.m. and 10:00 p.m. would operate similarly to other Downtown restaurants with bars (e.g., Strizzi’s, Haps, Stacey’s, Blue Agave, Pastas, and Fontinas restaurants) and would not likely generate disorderly conduct problems historically associated with some of the older, more traditional-style bars. Staff notes that the residential units within the commercial district have co-existed with the nearby commercial uses for many years. In staff’s opinion, as proposed and conditioned, the use would not produce any adverse impacts on the adjacent properties in terms of noise, parking, litter, disorderly behavior, or other objectionable influences. However, if problems do occur, staff has added conditions of approval which would allow the Director of Planning and Community Development to refer the use permit back to the Planning Commission, for review at which time the Commission may choose to impose additional conditions to mitigate such problems or to revoke the use permit.

The Pleasanton Downtown Association has endorsed the applicant’s proposal as a positive contribution to the diversity of the restaurants in the Downtown area (please see Exhibit D).

Hours of Operation

The existing business hours are Monday through Sunday from 11:30 a.m. to 10:00 p.m. The applicant is requesting to extend those hours for the service of alcohol to 12:00 a.m. Other recent conditional use permit approvals for similar bar uses in the Downtown include:

- the Rose Hotel for service of alcohol until 12:00 a.m. Sunday through Thursday and until 2:00 a.m. on Friday and Saturday, and
- the Redcoats British Pub and Restaurant for service of alcohol until 12:00 a.m., Monday through Thursday; 1:00 a.m. Fridays and Saturdays; and 11:00 p.m. on Sundays. The restaurant/bar may also remain open until 1:00 a.m. on March 17th (St. Patrick’s Day), July 3rd, the Wednesday before Thanksgiving Day, December 23rd, and New Year’s Eve each year.

Staff spoke to Elizabeth Troutman with the Department of Alcoholic Beverage Control (ABC), regarding the applicant’s proposal on May 1, 2008. Ms. Troutman stated that ABC does not have any concerns with the applicant’s proposal and noted that there have not been any issues

with the applicant or the restaurant itself. She noted that ABC would require the applicant to adhere to the hours outlined in the approved conditional use permit.

The applicant has applied to ABC to allow for service to 11:00 p.m.; however, conversation between the applicant, ABC, and staff concluded that alcohol service to 12:00 a.m. would be supported by ABC. Staff requested that the Pleasanton Police Department view the request to determine if there were any concerns that they might have. They stated that they do not have any outstanding issues with Baci Café. The Pleasanton Police Department has informed staff that as a rule, alcohol services up to 12:00 a.m. does not create disorderly conduct, public drunkenness, or other unpleasant encounters from alcohol. When hours are allowed to be extended up to 2:00 a.m., police response increases due to the above along with fights etc. that may occur.

Parking

Baci Café is located in Downtown Pleasanton, where additional parking would not be required for existing establishments. However, since the request for extended hours for the service of alcohol requires a use permit, staff feels that it is appropriate to review potential parking issues that may be associated with the extending the hours.

On-street parking is provided along Main and Neal Streets. The business hours would be extended from 10:00 p.m. to 12:00 a.m. Some tables in the establishment would be replaced with stools; however, the seating count would likely remain the same. Staff does not believe allowing additional hours for service of alcoholic beverages would increase the existing parking demand.

Noise

Patrons' voices and low-level ambient music would be the main noise sources emanating from the business. Based on the proposal, staff does not believe that the request to extend the service of alcohol by two hours would create noise levels impacts and would continue to be the same as the existing conditions.

PUBLIC NOTICE

Notice of this application was sent to all property owners and occupants within 1,000 feet of the subject property. At the time this report was prepared, staff was contacted by Ms. Grace Lutman stating her support for the proposed application. She indicated that approving the application will further assist in "establishing a Pleasanton night life for a vibrant Downtown". Staff was also contacted by Michael O'Callaghan who stated concerns with the refuse. He indicated that the trash enclosure was not covered, un-kept, and odorous. Staff has provided pictures of the trash enclosure in Exhibit E.

FINDINGS

The Planning Commission needs to make the following findings prior to granting the conditional use permit.

1. The proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.

Objectives of the Zoning Ordinance include fostering a harmonious, convenient, workable relationship among land uses, protecting existing land use from inharmonious influences and harmful intrusions, and ensuring that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. As conditioned, staff believes that the proposed extended restaurant hours would be consistent with these objectives.

The site of the proposed use is located in the Downtown, which permits a variety of commercial, office, and residential uses. Restaurants serving alcohol after 10:00 p.m. are considered compatible uses within the C-C district. The restaurant would continue to be operated in a manner so that noise, parking, or other land use conflicts would be unlikely to spill over to neighboring properties. The proposed operation would be consistent with Downtown Specific Plan goals of increasing the diversity of the area and with Pleasanton Downtown Association goals of creating a night life in the Downtown. The proposed conditions of approval for the applicant's request provide the City the ability to ensure that the use meets its conditions of approval. The use is, in staff's opinion, consistent with the objectives of the zoning district, and staff believes that this finding can be made.

2. The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

The proposed project, as conditioned, would not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity. The restaurant/bar is in a location such that it is consistent with the commercial area and uses within the Downtown. The proposed extended hours of operation are similar to other restaurant establishments in the area. Downtown residents acknowledge that there is an expectation of more activity than in other more distant residentially zoned neighborhoods. Staff believes that the minor change in hours would not create any additional inconveniences to the downtown residents. Staff has added standard conditions of approval appropriate for uses of this type to ensure that the restaurant is operated and maintained in a safe, clean, and appropriate manner. Furthermore, the applicant can be required to mitigate any nuisances, noise, or problems, should they arise. Therefore, if the restaurant operates in the manner proposed and as conditioned, staff believes that the use will not detrimentally impact the surrounding properties and, therefore, staff believes this finding can be made.

3. The proposed conditional use will comply with each of the applicable provisions of the Zoning Ordinance.

The site’s Central Commercial zoning conditionally permits the establishment of bars. In staff’s opinion, the proposed use complies with the relevant sections of this ordinance. The restaurant would be operated in accordance with all of the provisions of the Municipal Code as they relate to restaurants and bars and will operate according to conditions of approval recommended by staff for such uses. Granting a conditional use permit to the applicant for a bar is consistent with the City’s ability to regulate zoning as listed in the Municipal Code Chapter 18.124 “Conditional Uses.” Therefore, staff believes that this finding can be made.

ENVIRONMENTAL ASSESSMENT

Projects of this nature are categorically exempt from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

CONCLUSION

Baci Café has been operating in the Downtown for several years and has been a good neighbor to both adjacent businesses and Downtown residents. As conditioned by staff, the request to increase the hours of alcohol service by two hours would not detrimentally affect the surrounding uses or properties. Draft conditions of approval have been included which would ensure that the safety and general welfare of the surrounding area would be maintained. Staff believes that the proposed use permit for Baci Café to allow the extended hours for service to 12:00 a.m. would be in keeping with other restaurants in the Downtown area. The proposal would not impact on-street parking. The requested hours of operation for the alcoholic beverage service would be a minor increase from the existing operation. Staff believes the Planning Commission could make a favorable determination in support of the proposal.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve PCUP-217 by taking the following actions:

1. Make the required conditional use permit findings as listed in the staff report; and
2. Approve PCUP-217 subject to the conditions listed in Exhibit B.

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