



## Planning Commission Staff Report

May 21, 2008  
Item 3.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"

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### BACKGROUND

Baci Café is located on the northeast corner of Main and Neal Streets. The applicant is the owner and operator of Baci Café; which has been in business on Main Street since January 2003. Baci Café also secured an outdoor dining permit in February 2003 for the seating that is located on Main and Neal Streets. Currently, the applicant is only allowed to serve beer and wine to restaurant patrons until 10:00 p.m. The applicant wishes to serve alcohol until after 10:00 p.m. and to include the service of spirits for a proposed bar area. The applicant will submit interior remodel plans to the Building and Safety Division for the proposed bar area, where 6 bar stools would be provided, for a full service bar.

As stated in the Municipal Code, 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. The purpose of the use permit is to review land uses and business operations which have the potential for creating impacts on adjacent properties and uses and to adopt conditions of approval designed to ensure that such impacts are properly mitigated.

## 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 and commercial businesses and restaurants that currently operate similarly to how the applicant is proposing to operate, i.e., service of spirits after 10:00 p.m. On-street parking is available on Main and Neal Streets with additional parking provided north of the subject site.

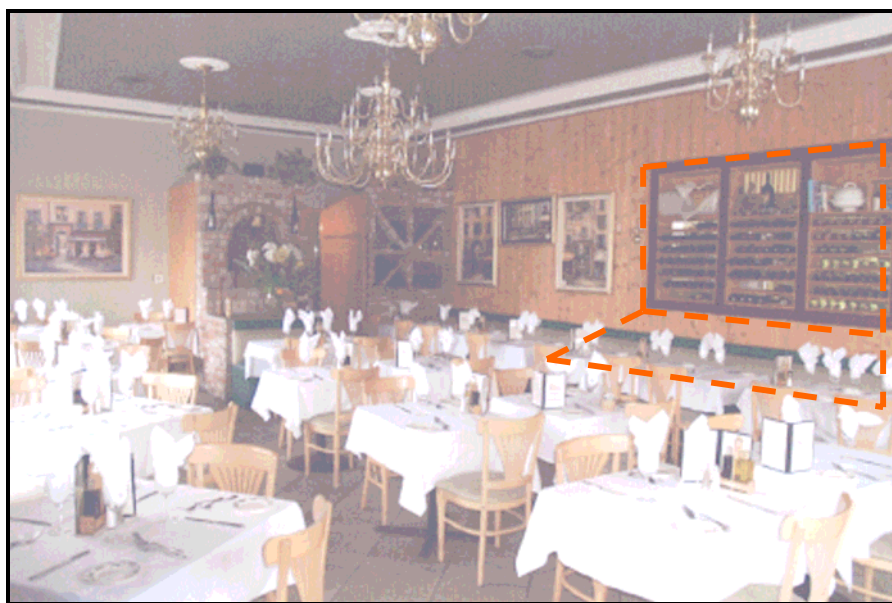


## PROJECT DESCRIPTION

The only proposed change to the establishment is the service of spirits and service of alcohol past 10:00 p.m. The applicant has provided a narrative addressing the specifics of the proposal, a floor plan showing the layout of the restaurant, and a copy of the establishment’s menu. The restaurant is approximately 2,600 square feet with sidewalk dining available along Main and Neal Streets. The applicant classifies the establishment as a full-service restaurant, but as mentioned above, in order to sell alcohol to restaurant patrons after 10:00 p.m., the City has made a practice of considering such uses as “bars,” which require a conditional use permit.

The current hours of operation for Baci Café are Monday through Sunday from 11:30 a.m. to 10:00 p.m. The applicant is proposing to extend the operation by up to two hours, depending on

how busy the evening is, and offer a bar menu beginning at 9:30 p.m. (please see Exhibit A). The restaurant plays classical/light jazz music for its patrons on speakers inside the dining room area only. The restaurant would seat a maximum of 66 people indoors and 24 in the outdoor dining area. As shown in the picture below, the applicant is proposing to remove the three tables below the wine racks and convert that area into a bar. The applicant is proposing six 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; however, tenant improvement plans and permits will be required for the bar area 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 due to the proposed bar at the restaurant.

## **ANALYSIS**

Restaurants that serve alcohol past 10:00 p.m. (“bars”) are conditionally permitted uses in the C-C district. Conditional uses are uses that, by their nature, require individual review to ensure that impacts associated with their use will be minimal. Conditional use permits may be subject to appropriate conditions to ensure that any potential adverse impacts associated with the use will be mitigated. The following is staff’s analysis of the proposed use and its impacts, if any.

### 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 the 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 Fontina restaurants) and would not 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 with few complaints. 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 will 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. Therefore, from a land use perspective, staff finds the use to be acceptable, as conditioned.

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

As stated above, Baci’s 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 by one to two hours. Recent conditional use permit approvals for similar bar uses in the Downtown allowed the Rose Hotel to serve alcohol until midnight Sunday through Thursday and until 2:00 a.m. on Friday and Saturday and the Crown British Pub and Restaurant to serve until 1:00 a.m. Monday through Saturday and midnight on Sunday. The proposed use permit would result in an extension of alcoholic beverage service for up to two hours, which staff believes is minor and would not change the essential character of the restaurant.

On May 1, 2008, staff spoke to Elizabeth Troutman, Department of Alcoholic Beverage Control (ABC), regarding the applicant’s proposal. 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. Furthermore, she stated that the applicant could serve alcohol up to 2:00 a.m.; however, she noted that ABC would require the applicant to adhere to the hours outlined in the approved conditional use permit. Staff also checked with the Pleasanton Police Department regarding any concerns that it might have. The Police Department stated that it does not have any outstanding issues with Baci Café.

### 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 with additional public parking provided at 548 Main Street between All About Me, a women's boutique, and Round Table Pizza. With the exception of the extended hours of operations, the business hours will not change. Some tables in the establishment will be replaced with stools; however, the seating count would remain the same. Staff does not believe allowing additional hours for service of alcoholic beverages would increase the demand on parking, and ample parking is likely to be available during the extended hours. Nevertheless, should parking-related problems occur, staff has included a condition of approval which allows the Director of Planning and Community Development to refer the use permit back to the Planning Commission for possible mitigation measures.

### 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 noise levels would be significantly audible to adjacent businesses or residents.

### Tenant Improvements

Future tenant improvements shall be subject to the review and approval of the Building and Safety Division and the Fire Department. Changes to the exterior of the building shall not be made without prior approval from the Planning Division.

### Signage

Additional signage is not required for the extension of the hours or service of spirits; therefore, no additional signage proposed with this application.

## **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”.

## **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 “bar” 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. The proposed “bar” is within an existing restaurant on Main Street surrounded by other restaurants that serve spirits and other alcohol after 10:00 p.m. Restaurants and restaurants serving alcohol after 10:00 p.m. (bars) are considered compatible uses within this commercial district. Bars are consistent with the purposes of the Central-Commercial zoning district to provide locations to offer commodities and services to the residents of Pleasanton and surrounding areas. The restaurant would continue to be operated in a manner and at a sufficient distance from residentially-zoned properties so that noise, parking, or other land use conflicts would be unlikely to spill over to neighboring properties. Staff notes that no live music is proposed with this application. 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 give the City the appropriate controls to ensure that the use does not have any negative impacts on surrounding businesses and properties. The use permit for the “bar” 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.**

Staff is of the opinion that, as conditioned, the use would not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity. The bar would not play loud music, provide live entertainment, or provide dancing areas for customers, thus avoiding possible adverse noise impacts to adjacent properties. The location of this use is a commercial area within the Downtown. The proposed hours of operation are similar to other restaurant establishments in the area. The residents living in the commercially zoned properties in the Downtown area have co-existed with businesses for many years without much complaint. The 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 requested by the applicant will not create any additional impacts to these residents. In addition, staff believes that sufficient parking is provided in the parking lot north of the restaurant and on adjacent streets within walking distance to the restaurant in question. The sale of alcoholic beverages would extend up to two hours beyond the current hours. 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 that 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 be operated 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 up to 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 up to 12:00 p.m. would be in keeping with other restaurants in the Downtown area. The proposal would not impact on-street parking or the parking at the adjacent lot on Main Street. 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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