glendale california
City of Glendale
Community Development
Planning & Neighborhood Services
633 E. Broadway, Room 103
Glendale, CA 91206-4311
Tel 818.548.2140 Tel 818.548.2115
www.glendaleca.gov

March 16, 2016

Keith Glassman
1309 Post Avenue
Torrance, CA 90501

&

M. Kim Mattersteig
2439 Olive Avenue
Los Angeles, CA 91214

RE: 2284 HONOLULU AVENUE
ADMINISTRATIVE USE PERMIT NO. PAUP 1518910
(STARBUCKS)

Dear Mr. Glassman / Ms. Mattersteig:

The Planning Commission of the City of Glendale, at its meeting held on March 16, 2016, **REVERSED** the Planning Hearing Officer's decision and **DENIED** Administrative Use Permit No. PAUP 1518910, located at **2284 Honolulu Avenue,** to allow the sales, service and on-site consumption of beer and wine at an existing fast food restaurant in the "CR" - (Commercial Retail) zone, described as Lot 44, Tract No. 1701, the in the City of Glendale, County of Los Angeles.

Note: The Planning Commission of the City of Glendale, at its meeting held on March 2, 2016, conducted a public hearing on an appeal of the Planning Hearing Officer's approval of an Administrative Use Permit No. PAUP 1518910, located at **2284 Honolulu Avenue**. After due consideration, the Planning Commission *continued the hearing to March 16, 2016,* and asked staff to prepare findings for a motion to **Deny** the project and overturn the decision of the Planning Hearing Officer.

A copy of the motion dated March 16, 2016, adopted by the Planning Commission is attached.

APPEAL PERIOD

Under the provisions of the Glendale Municipal Code, Title 30, Chapter 30.62, any person affected by the above decision has the right to appeal said decision to the City Council if it is believed that the decision is in error or that procedural errors have occurred, or if there is substantial new evidence which could not have been reasonably presented. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms within fifteen (15) days

following the actual date of the decision. Information regarding appeals and appeal forms will be provided by the Permit Services Center (PSC) or the Community Development Department (CDD) upon request and must be filed with the prescribed fee prior to expiration of the 15-day period, on or before **MARCH 31, 2016,** at the Permit Services Center (PSC), 633 East Broadway, Room 101, Monday thru Friday 7:00 a.m. to 12:00 p.m., or at the Community Development Department (CDD), 633 East Broadway, Room 103, Monday thru Friday 12:00 p.m. to 5 p.m.

If you need additional advice on filing an appeal, please confer with the City's Building and Safety Division, Room 101 of the Municipal Services Building, 633 East Broadway, or phone (818) 548-3200.

APPEAL FORMS available on-line: **http://www.ci.glendaleca.gov/appeals**
To save you time and a trip - please note that some of our FORMS are available on line and may be downloaded.

NOTICE – subsequent contacts with this office

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the case planner (Milca Toledo at 818.937.8181) who acted on this case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **by appointment only**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

Sincerely,
Director of Community Development

Laura Stotler

Laura Stotler
Principal Planner

LS:MT:sm
Attachment
CC: City Clerk (K. Cruz); City Attorney's Dept. (G. van Muyden); Fire Prevention Engineering Section-(J. Halpert); Dir. Of Public Works (R.Golanian); Traffic & Transportation Section (W. Ko/S. Vartanian); General Manager for Glendale Water and Power (S.Zurn); Glendale Water & Power--Water Section (G. Tom/S. Boghosian); Glendale Water & Power--Electric Section (V. Avedian/B. Ortiz); Parks, Recreation and Community Services Dept. (T. Aleksanian); Neighborhood Services Division (S. Mirzaians); Integrated Waste Management Admin. (D. Hartwell); Maintenance Services Section Admin. (D. Hardgrove); Street and Field Services Admin.; Engineering and Environmental Management (C.Chew/R. Villaluna); all those who spoke at the hearing and sent written correspondences; and case planner-Milca Toledo.

MOTION

Moved by Planning Commissioner Landregan, and seconded by Planning Commissioner Astorian, that upon review and consideration of all materials and exhibits of current record relative to Administrative Use Permit Case No. PAUP 1518910, located at **2284 Honolulu Avenue**, where after having conducted an appeal hearing on said matter on March 2, 2016, that the Planning Commission hereby **reverses** the Planning Hearing Officer's decision dated December 10, 2015 and **DENIES** said Administrative Use Permit Case No. PAUP 1518910 in accord with revised findings as below.

REQUIRED/MANDATED FINDINGS

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report by the Community Development Department staff thereon, and the statements made at the public hearing with respect to this application, the Planning Commission **REVERSED** the Planning Hearing Officer's decision and **DENIED** said Administrative Use Permit No. PAUP 1518910, as per the below findings.

A. That the proposed use will be consistent with the various elements and objectives of the general plan.

The proposed use will be inconsistent with the various elements and objectives of the general plan because the request to expand the fast food use (Starbucks) to include service of beer and wine for on-site consumption is inappropriate for the site. This site is located in the North Glendale Community Plan, Montrose Shopping Park District (4.5a) and is designated Town Center Commercial. The Montrose Shopping District/Town Center designation of the General Plan does encourage a mix of uses as implemented through the CR zoning which requires an AUP for the sale of beer and wine. The purpose of an AUP is to allow special, site-specific evaluation of uses which have the potential for adverse impacts based on where they are located and the particular characteristics of the use.

This Starbucks coffee shop is a popular meeting place for youth, particularly during afterschool and evening hours, as established by public testimony. This shop is located in a pedestrian district which has an abundance of youth-oriented businesses, including Color Me Mine, Tom's Toy Store, Critters, a karate studio, Revolution Dance Studio, frozen yogurt shop, Mathnasium, tutoring, Kidsart, Billy's Boardshop, Once Upon A Time Bookstore, and others located within 500 feet. Testimony from residents, high school students and petitions establish that many residents oppose the serving of alcoholic beverages at this Starbucks because of the large number of youth that frequent this store and the area surrounding it. The design of the store provides limited visibility to the outdoor patio where alcoholic beverages may be served so it will be difficult for employees to adequately monitor alcohol service. Residents also expressed concern that sale of alcoholic beverages would eliminate this Starbucks as a safe, alcohol free location for youth to meet after school and in the evenings as they do presently.

The applicant is requesting a Type 41 license which allows for service of beer and wine at a bona fide eating establishment which is determined as a restaurant where over 50% of gross receipts come from sale of food. During public testimony a Starbucks representative noted that over 50% of Starbucks sales come from sale of beverages, not food. Additionally, the Starbucks appealed Condition 10 which required sale of beer and wine with meals, stating that they want to sell beer and wine without requiring the sale of meals. They stated that pumpkin seeds or similar light snack would be provided with alcoholic beverages. Testimony from several residents noted that allowing sale of beer and wine accompanied merely by pumpkin seeds, without requiring meal service, would allow Starbucks to operate like a tavern and not a bona fide eating establishment. A Starbucks representative stated that they wished to sell beer and wine similarly to Chipotle and other fast food establishments; however, this statement is misleading because Chipotle only sells beer and wine with food and Starbucks has made it clear that that is not their intention.

B. That the use and its associated structures and facilities will be detrimental to the public health or safety, the general welfare, or the environment.

The use and its associated structures and facilities will be detrimental to the public health or safety, the general welfare and the environment. As stated in Finding A, this is a pedestrian oriented location surrounded by youth-oriented businesses. Starbucks is popular with high school students during afterschool and evening hours because parents see this as a safe location for teenagers to be unaccompanied by parents. Testimony from residents, including a pastor from a local church, a counselor at a family counseling center, Crescenta Valley High School students, and representatives of Prom Plus, a non-profit community organization that promotes safe, alcohol-free events for high school students, state that selling beer and wine would change the character of this location so that it would no longer be considered youth-friendly.

Starbucks is requesting a Type 41 license which would be typical for a restaurant which serves alcohol with meals and does not have age restrictions on the premises. Starbucks protested the requirement for meal service with beer and wine sales, instead wanting to serve alcohol with pumpkin seeds. The service of beer and wine without meals is typical for bars or taverns which have age restrictions and youth may not enter. Starbucks is proposing no age restrictions on their premises, only for alcohol service. Acting in the manner of a tavern without age restrictions, particularly given the frequency with which unaccompanied minors meet and study at Starbucks, has the potential for adverse impacts. Indeed, evidence in the record exists, via testimony from a drug/alcohol counselor, that a minor has in the past been able to illegally obtain alcohol at a Pasadena Starbucks that currently has beer and wine service.

The design of the business with the service bar at the back of the store and seating in front and an outdoor patio provides Starbucks employees with poor visibility of seating areas. Based on the existing floor plan, the barista bar/counter is centered along the easterly interior building wall. According to the floor plan submitted by the applicant, if standing behind the counter, a barista would not have a clear line of site of the outdoor patio area since the patio area is situated at a distance ranging from approximately 12 to 19 feet from the barista counter. In addition, a portion of the patio area is situated at an angle and some tables are abutting the public sidewalk at a distance of approximately 22 feet from the barista service counter. While there may be limited view of patrons sitting in the patio area, at a distance, there is no clear view of what the patrons are drinking. Therefore, the poor visibility will hinder the ability of employees to monitor alcohol service and prevent ABC violations. Additionally, the size of the Montrose Starbucks is too small to accommodate additional sales of beer and wine. The Starbucks representative described beer and wine sales as a patron orders a glass at the counter, then is served beer or wine and is told to find a seat for on-site consumption. Members of the public raised concern that this Starbucks is regularly filled, with no seats available, which would lead to people leaving the premises with alcohol in violation of ABC rules. While Starbucks did provide examples of existing Starbucks locations with beer and wine service, public testimony noted that those stores had characteristics which differ from Montrose, such as larger floor areas, or location in a tourist destination or downtown.

C. That the use and facilities will adversely affect or conflict with adjacent uses or impede the normal development of surrounding property.

The granting of the variance will adversely affect or conflict with adjacent uses because the design of the facility does not allow employees to monitor beer and wine service adequately. The size of the facility is inadequate to accommodate on-sale beer and wine service because the shop already has a shortage of seats in the afternoon and evening hours and on-site seating is required for sale of beer and wine. Additionally, the neighborhood is surrounded by youth-centered businesses which make this a sensitive location for alcohol sales. For example, there are several businesses in the immediate area that cater to minors, including but not limited to, the neighboring businesses to the east Color Me Mine and the Martial Arts Studio. In addition, Froyo (frozen yogurt), Tom's Toys, Critters, and Revolution Dance Studio are located across the street to the north. These and other youth-oriented businesses are located within close proximity to Starbucks, which support the fact that Starbucks is located in a sensitive location for the on-site sales, service and consumption of alcohol.

As was noted by high school students during public testimony, Starbucks is a popular meeting place for unaccompanied high school students to socialize and study. The design of the store limits the ability of employees to adequately monitor alcohol service, particularly in the outdoor patio next to the public sidewalk where actions of unaccompanied minors may not be visible to staff behind the sales counter (See Finding B). The sale of beer and wine described by the Starbucks representative would allow patrons to obtain beer or wine and then find seating,

which is often unavailable. While lack of seating is not a problem with non-alcoholic beverages because those may be taken off-site, lack of seating is an issue with beer and wine service since there is great potential for patrons to leave with open container beer and wine, particularly since employees do not have good visibility or control over the outdoor patio seating area. Further, lack of seating could potentially result in patrons who purchase alcohol request other patrons give up their seats so that the new patrons can sit and drink alcohol. This issue was not addressed by the appellant, Keith Glassman, during his presentation. In addition, as public testimony established, the outside seating leaves open the possibility that a patron could leave a partially consumed alcoholic beverage, which would give an underage patron the opportunity to either consume the beverage or take the beverage off site to consume it.

D. That adequate public and private facilities such as utilities, landscaping, parking spaces and traffic circulation measures are or will be provided for the proposed use.

The objective of the Zoning Code is to ensure sensible development with adequate public and private facilities such as utilities, landscaping, parking spaces and traffic circulation measures. There are adequate utilities and landscaping to serve the site. However, concerns were raised by the public that the parking reduction was granted for Starbucks based on evidence that Starbucks generated parking demand in the morning, not evening hours. Testimony from neighboring businesses and homeowners noted concern that service of beer and wine will further impact parking that was not addressed or anticipated in the parking reduction permit. The decision to grant Starbucks a Parking Reduction Permit was based on Planning Hearing Officer factual finding that there was sufficient existing parking in the vicinity to meet the Starbuck's parking shortfall because during the evening when surrounding restaurants experience their peak hours, Starbucks is off-peak and has fewer patrons. Thus, Starbucks' Parking Reduction Permit was based on Starbucks' hours of operation and peak parking demand not conflicting with the existing peak demand for parking in the surrounding City-owned parking lots or on-street parking. Parking Reduction Permit condition #4 states, in part, that the permit runs with *the use*, a fast-food restaurant, *as long as there is no intensification of the use*. (Emphasis added) With respect to the current Starbucks' current AUP request, the Planning Commission determined that while the current use, a fast-food restaurant, is not changing, Starbucks' proposed "evening program" where alcoholic beverages will be offered conflicts with Parking Reduction Permit Condition #4 because it will intensify the existing coffee shop fast-food use, and is designed to attract more patrons during evening peak hours. These facts are contrary to findings and conditions of approval in the parking reduction permit.

CONSIDERATIONS REQUIRED FOR APPLICATIONS INVOLVING THE SALE, SERVING OR CONSUMPTION OF ALCOHOLIC BEVERAGES (SECTION 30.49.030E)

1. **That where an existing or proposed on-site use is located in a census tract with more than the recommended maximum concentration of on-site uses or that where an existing or proposed off-site use is located in a census tract with more than the recommended maximum concentration of off-site uses, both as recommended by the California Department of Alcoholic Beverages Control, such use does not or will not tend to intensify or otherwise contribute to the adverse impacts on the surrounding area caused by such over concentration;**

   Testimony established that there are at least 31 other businesses in this census tract that serve alcohol, so there is no public convenience or necessity for this Starbucks to serve beer and wine.

2. **That where the existing or proposed use is located in a crime reporting district with a crime rate which exceeds twenty (20) percent of the city average for Part 1 crimes, as reported by the Glendale Police Department, such use does not or will not tend to encourage or intensify crime within the district;**

   Starbucks is located in an area which exceeds Part 1 crimes as reported by the Glendale Police Department. However, these crimes were not associated with Starbucks and the Glendale Police Department did not indicate concern with service of beer and wine at Starbucks provided that beer and wine could only be sold with meals as required by a Type 41 license.

3. **That the existing or proposed use does not or will not adversely impact any church, public or private school or college, day care facility, public park, library, hospital or residential use within the surrounding area;**

   Starbucks will not adversely impact any church, public or private school or college, day care facility, public park, library, hospital or residential use within the surrounding area. However, the intent of the Zoning Code in identifying uses such as churches, schools, day care facilities and parks is to signal that there may be sensitive uses that need to be considered when evaluating sale and service of beer and wine. Starbucks is located in an area with numerous child-centered uses (See Finding A). While there are similar restaurant uses within the Montrose Shopping Park area that currently serve alcoholic beverages, Starbucks differs from the other restaurants because it is a fast food restaurant and has a high concentration of youth patrons that frequent this location compared to the other restaurants in the area. Therefore, service of beer and wine in the center of a neighborhood with child-centered uses and at a business with a large youth clientele after school, during evening hours and on weekends creates the potential for adverse impacts the young people who frequent this Starbucks and

surrounding to child-centered uses in the area, particularly since the service of beer and wine is proposed without required service of meals as opposed to tavern-style snacks. Service of beer and wine without meals is more typical of a bar or tavern. Alcohol Beverage Control does not require food service at a tavern, but a restaurant with a Type 41 license for service of beer and wine, has to be a bone fide public eating place.

4. **That adequate parking and loading facilities are or will be provided for the existing or proposed use, or other reasonable alternatives satisfy the transportation and parking needs of the existing or proposed use; and**

Starbucks received a parking reduction permit three years ago based on Starbucks' representation that the majority of Starbucks' business occurred prior to 11am. Starbucks argued that their business would not impact parking for other business in the Montrose Shopping Park because Starbucks parking demand occurred in the early morning, and their business dropped substantially in the afternoon and evenings when parking demand for other businesses (such as restaurants) in the Montrose Shopping Park peaked. The proposal for Starbucks to serve beer and wine in late afternoon and evening hours would create additional parking demand at the time when shared Montrose Shopping Park lots are already filled, a situation that was not considered during the granting of the parking reduction permit or conditional use permit to allow Starbucks as a fast food restaurant. Expanding the Starbucks use by permitting sale of beer and wine has the potential for increasing parking demand upon shared lots as indicated in finding D above. .

5. **That, notwithstanding consideration of the criteria in subsections 1 through 4 above, the existing or proposed use does or will serve a public necessity or public convenience purpose for the area.**

Testimony established that there are at least 31 other businesses in this census tract that serve alcohol. There are other fast food and full-service restaurants within the Montrose Shopping Park and within easy walking distance to this location that serve beer and wine with meals so this proposed use does not serve a public necessity or public convenience purpose.

VOTE
Ayes: Astorian, Landregan, Lee
Noes: None
Abstain: Shahbazian
Absent: Manoukian