



CITY OF GLENDALE, CALIFORNIA
COMMUNITY DEVELOPMENT DEPARTMENT
Director of Community Development

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www.ci.glendale.ca.us

March 20, 2013

Robert Toro
President
806 14th Street
Huntington Beach, CA 92648

**RE: 1133 SOUTH GLENDALE AVENUE
CONDITIONAL USE PERMIT NO. PCUP1232548 (Renewal) - BEER AND WINE
(Shakey's Pizza Parlor)**

(SEE: PCUP123552 – Arcade Establishment)

Dear Mr. Toro:

On March 13, 2013, the Planning Hearing Officer conducted and closed a public hearing, pursuant to the provisions of the Glendale Municipal Code, Title 30, Chapter 30.42, on your application for a Conditional Use Permit to allow the continued sales, service and on-site consumption of **beer and wine** at an existing fast-food restaurant, located at **1133 South Glendale Avenue**, in the "C3" - Commercial Service Height District I, and "R-2250 P" - Medium Density Residential (Parking Overlay), described as Portion of Lots 4, 5, 6, 7 and 10, Block 1, Ayers Tract, in the City of Glendale, County of Los Angeles.

APPLICANT'S PROPOSAL

Conditional Use Permit

(1) To allow the continued sales, service and on-site consumption of alcoholic beverages (beer and wine) at an existing fast-food restaurant.

CODE REQUIRES

Conditional Use Permit

(1) The sales, service and on-site consumption of alcoholic beverages requires a Conditional Use Permit in the "C3" Zone.

ENVIRONMENTAL RECOMMENDATION: This project is exempt from the California Environmental Quality Act (CEQA).

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 Hearing Officer has **GRANTED WITH CONDITIONS** your application based on the following:

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

The proposed use will be consistent with the various elements and objectives of the General Plan. The establishment is located in the "C3" Zone where a restaurant may be allowed in agreement with the Community/Services Commercial land use designation of the Land Use Element of the General Plan. The parking is located in the "R-2250 P" - Medium Density Residential Parking Overlay Zone. This area is comprised of a mix of commercial establishments, including, but not limited to retail/services, offices, and restaurants. The site is located in a multi-tenant commercial center in the South Glendale area. Presently, there are five tenant spaces including the subject tenant space. The existing restaurant is approximately 4,959 square feet. While the proposal requires a conditional use permit for the on-site sales of beer and wine, the proposed use is permitted in the C3 Zone and is consistent with the Land Use Element of the General Plan.

The Land Use Element seeks to improve the livability of the community for all Glendale residents as expressed in the living, working, shopping areas, as well as community facilities. Thus, the renewal of a conditional use permit at the existing pizza establishment, a fast-food restaurant offering beer and wine for on-site consumption and is consistent with the goals and objectives of the Land Use Element. The restaurant is located in a commercial zone in the South Glendale area where restaurants are desired. A restaurant use provides an option for the dining public to enjoy alcoholic beverages with their meals. The restaurant use does and will continue to serve local residents and businesses in the area and the service of beer and wine with meals serves a public convenience and necessity.

B. That the use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment.

The use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment. Shakey's Pizza Parlor has operated at its current location in South Glendale area for many years. This business is and will continue to operate as a fast-food restaurant. No evidence has been presented in the past or present which would indicate that the restaurant and its ancillary services would adversely impact any church, public or private school or college, day care facility, public park, library, hospital or residential use within the surrounding area. The service of beer and wine will continue to be accessory to the primary use.

According to the Glendale Police Department, the property is located in census tract 3025.05 where the suggested limit is three on-sale alcohol establishments. Currently there are four on-sale establishments in this tract, including the subject fast-food restaurant. This census tract has recorded 56 crimes; 11 percent below the city wide average of 63. Within the last calendar year, there were 13 calls for police service at this location. However, none resulted in a report being taken; the calls were not directly related to the sales, service or consumption of beer and wine or issues with the arcade establishment. Eleven of these calls were false alarm calls.

While there is a slight over concentration of alcohol service in this census tract, the sale of beer and wine in a restaurant setting is unlikely to cause significant issues of public drunkenness or alcohol-related crimes. These crimes are the principal target of the analysis of over-concentration and therefore, exceedance of the suggested limit does not raise concerns despite this project's location in an area with many similar uses. The service of beer and wine at a fast-food restaurant is similar to other uses in the vicinity that have an alcohol beverage component and has proven not to have a detrimental effect on surrounding uses.

C. That the use and facilities will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property.

The restaurant facility has existed for many years and has neither adversely affected, nor conflicted with adjacent uses or impeded the normal development of surrounding establishments and property. The incidental serving of alcoholic beverages with meals has not and is not anticipated to cause any conflicts with surrounding development in the future. This business has operated from this location for over 20 years with no problems.

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.

Adequate public and private facilities, such as utilities, landscaping, parking spaces, and traffic circulation measures are provided for the use. The site is fully developed and associated utilities exist and will remain. In addition, on-site parking is available to serve the restaurant and the remaining commercial uses. The continued serving of alcoholic beverages with meals and the existing restaurant has not proven and is not expected to conflict or alter the existing parking demand of the uses on-site.

E. That all the criteria set forth in Section 30.42.030 (F) to be considered in making the findings in subsection a. through d. above have all been met and thoroughly considered:

- 1) That such use does not or will not tend to intensify or otherwise contribute to the adverse impacts on the surrounding area caused by over concentration. This has been considered above in paragraph B
- 2) That such use does not or will not tend to encourage or intensify crime within the district. This has been considered above in paragraph B.
- 3) That such use does not or will not adversely impact any other uses within the surrounding area (church, public or private schools or college, day care facility, public park, library, hospital or residential use). This has been considered above in paragraph B.
- 4) That the proposed use satisfies its transportation or parking needs has been considered above in paragraph D.

- 5) That the proposed use does or will serve a public necessity or public convenience purpose for the area has been considered above in paragraph A.

SUMMARY OF PLANNING HEARING OFFICER'S DECISION

The Planning Hearing Officer was able to make the four required findings for a Conditional Use Permit to allow on-sale Beer and Wine in accordance with a bona fide restaurant. This restaurant has been operating for twenty years with beer and wine service and has proven to be a responsible operator. The use is consistent with the General Plan designation and zoning on the site. Conditions have been added to ensure compatibility with neighboring uses.

CONDITIONS OF APPROVAL

APPROVAL of this Conditional Use Permit for beer and wine shall be subject to the following conditions:

1. That the development shall be in substantial accord with the plans submitted with the application and presented at the hearing except for any modifications as may be required to meet specific Code standards or other conditions stipulated herein to the satisfaction of the Planning Hearing Officer.
2. That all necessary permits shall be obtained from the Building and Safety Division and all construction shall be in compliance with the Glendale Building Code and all other applicable regulations.
3. That all necessary licenses as required from Federal, State, County or City authorities including the City Clerk shall be obtained and kept current at all times
4. That sufficient measures shall be enforced to effectively eliminate interior and exterior loitering, parking congestion, disturbing noise, disturbing light, loud conversation and criminal activities.
5. That the service of alcoholic beverages shall be in full accord with the regulations and conditions established by the State Department of Alcoholic Beverage Control.
6. That sale of beer and wine at the fast-food restaurant shall be incidental to the selling of food to be consumed on the premises.
7. That the premises shall maintain a bona fide restaurant and shall provide a menu containing an assortment of foods normally offered in such a restaurant. Food service shall be available at all times and in all areas of the premises during normal operating hours.
8. That noise shall be contained to the site, such that persons of normal sensitivity off-site are not disturbed. The Planning Hearing Officer's opinion shall prevail to arbitrate any conflicts.

9. That the premises shall be maintained in a clean and orderly condition, free of weeds, trash and graffiti.
10. That the facilities shall not be rented, leased or otherwise occupied for purposes not specified in this application.
11. That any expansion or modification of the facility or use which intensifies the existing conditional use permit shall require a new conditional use permit application. Expansion shall constitute adding floor area, increased hours of operation, changes to the use or operation, or any physical change as determined by the Planning Hearing Officer with concurrence by the Community Development Director.
12. That all music, lighting, noise and odors shall be confined to the occupancy so as not to disturb occupants of other businesses or properties and patrons on the public right-of-way.
13. That the fast-food restaurant adhere to the City's Fresh Air (smoking) Ordinance, Title 15, Chapter 8.52 of the Glendale Municipal Code.
14. That adequate means shall be provided for the collection of solid waste generated at the site and that all recyclable items shall be collected and properly disposed of to the satisfaction of the Integrated Waste Administrator of the City of Glendale. No trash containers shall be stored in any parking, driveway, or landscaping area.
15. That the proprietor and his/her employees shall make an active and conscientious effort to keep customers and employees from trespassing on other nearby properties or otherwise making disturbances in the area.
16. That all signs displayed shall conform to the requirements of the Glendale Municipal Code.
17. That no exterior signs advertising the sales/service of alcoholic beverages be permitted.
18. That sufficient measures be enforced to effectively eliminate interior and exterior loitering, disturbing noise, disturbing light, loud conversation and criminal activities.
19. That access to the premises shall be made available upon request to all City of Glendale authorized staff (i.e. Planning and Neighborhood Services Division, Building and Safety Division, Fire Department, Police Department, etc.) for the purpose of verifying compliance with all laws and the conditions of this approval.
20. At all times when the premises are open for business, the service of alcoholic beverages shall be made only in the areas designated with an ABC license.

21. Consumption of alcoholic beverages will only be in those same licensed areas. Sales, service or consumption of beer and wine shall be permitted only between the hours of 11:00am to 2:00 a.m. each day of the week.
22. Live entertainment is permitted with the exception that no bikini activities or events, no lingerie activities or events, no swimwear activities or events, nor any similar activities or events be allowed where partial clothing of male or female entertainment is provided.
23. The restaurant shall remain open to the public during business hours, in accordance with Title 30 of the GMC.
24. That there shall be no dancing at any time on the premises.
25. That patrons shall not be permitted to remain in the parking areas after closure or to loiter in the parking areas while the business is open.
26. That the authorization granted herein shall be valid for a period of **ten years until MARCH 13, 2023**, at which time, a reapplication must be made.

APPEAL PERIOD (effective date), TIME LIMIT, LAPSE OF PRIVILEGES, TIME EXTENSION

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper City and public agency.

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 Planning Commission 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 Building and Safety Division upon request and must be filed with the prescribed fee prior to expiration of the 15-day period, on or before **April 4, 2013**, in the Building and Safety Division, 633 East Broadway, Room 101.

APPEAL FORMS available on-line:
<http://www.ci.glendale.ca.us/planning/SubmittingAProject.asp>

To save you time and a trip - please note that some of our FORMS are available on line and may be downloaded. AGENDAS and other NOTICES are also posted on our website.

TRANSFERABILITY

This authorization runs with the land or the use for which it was intended for and approved. In the event the property is to be leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions and/or limitations of this grant.

VIOLATIONS OF THESE CONDITIONS

Violations of conditions required by this determination may constitute a misdemeanor or infraction under section 1.20.010 of the Glendale Municipal Code (GMC) and/or a violation of other local, State or Federal laws or regulations. Unless a specific penalty is provided, any person convicted of a misdemeanor shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), or imprisonment for a term not to exceed six (6) months, or by both fine and imprisonment. Infractions are punishable by a fine not exceeding the sum of five hundred dollars (\$500.00) for each violation.

Violations of conditions required by this determination may be grounds for a revocation.

REVOCATION, CONTINUING JURISDICTION

Section 30.64.020 – Revocation – The Community Development Department shall have continuing jurisdiction over variances and conditional use permits (individual cases heard and decided upon by the Planning Hearing Officer).

To consider the revocation, the Planning Hearing Officer shall hold a public hearing after giving notice by the same procedure as for consideration of a conditional use permit at least ten (10) days notice by mail to the applicant or permittee. Continuing jurisdiction over any case is the purview of the Planning Hearing Officer, with concurrence by the Director of Community Development.

GMC CHAPTER 30.41 PROVIDES FOR

TERMINATION

Every right or privilege authorized by a conditional use permit shall terminate two (2) years after the granting of such, unless the exercise of such right or privilege has commenced in good faith prior to such time, except as otherwise provided for.

EXTENSION

An extension of the conditional use permit may be requested one time and extended for up to a maximum of one (1) additional year upon receipt of a written request from the applicant and demonstration that a reasonable effort to act on such right and privilege has commenced within the two (2) years of the approval date. In granting such extension the applicable review authority shall make a written finding that neighborhood conditions have not substantially changed since the granting of the conditional use permit.

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 and 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,



Laura Stotler
Planning Hearing Officer

LS:sm

CC: City Clerk (K.Cortes); Police Dept. (Tim Feeley/Z.Avila); City Attorney's Dept. (G. van Muyden/M.Yun); Fire Prevention Engineering Section-(D.Nickles); City Engineer and Traffic & Transportation Section (Roubik Golanian/G.Tom); Director of Public Works and General Manager for Glendale Water and Power (Stephen Zurn); Glendale Water & Power--Water Section (R.Takidin); Glendale Water & Power--Electric Section (M.Kelley/M.Jackson); Parks, Recreation and Community Services Dept. (Emil Tatevosian); Neighborhood Services Division (A.Jimenez); Integrated Waste Management Admin. (D.Hartwell); Maintenance Services Section Admin. (D.Hardgrove); Street and Field Services Admin.; Environmental Management (M.Oillataguerra); and case planner – Milca Toledo.