

TO: HONORABLE CHAIRMAN AND PLANNING COMMISSION
FROM: RON WHISENAND, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: CONDITIONAL USE PERMIT 07-001 - APN: 009-106-015, 016, 017 & 009-103-012, 013 (APPLICANT: DOWNTOWN BREW)
DATE: APRIL 22, 2008

Needs: For the Planning Commission to review the status of Conditional Use Permit 07-001, an existing Conditional Use Permit (CUP) allowing after hours amplified music and dancing for the existing Downtown Brew restaurant.

- Facts:**
1. The restaurant is located at 1108 Pine Street.
 2. On March 27, 2007, the Planning Commission adopted Resolution 07-040 approving CUP 07-001 (See Attachment 2) allowing after hours amplified music and dancing subject to conditions of approval being met.
 3. Condition No. 4 of the resolution required that the CUP be reviewed by the Planning Commission after a 3-month time period, to determine whether the intent of loitering and noise nuisance is being deterred/controlled. This request for Planning Commission review is in order to meet Condition No. 4.

**Analysis
and**

Conclusions: The Planning Commission's approval of the Downtown Brew CUP was based on conditions of approval added to the project by the Police, Fire, Building and Planning Departments' to insure that impacts from the activities would not impact the neighboring businesses/residents.

One of the conditions (Condition No. 12) requires that all the necessary departments "sign-off" that their respective conditions are met, prior to Downtown Brew commencing the after hours activities.

It is evident that Downtown Brew has been operating the after hours activities for almost a year, and the City has never received a request to inspect the establishment to insure that all conditions were satisfied prior to commencement of activities.

Additionally, the Planning Department has been notified by the Police Department, that there have been various complaints related to excessive

noise from Downtown Brew (see Attachment 1, summary from the Police Department).

At the time of the approval of the original CUP, a condition was added that would allow the Commission to place further requirements on Downtown Brew if there were noise related complaints. Condition No. 5 of the original CUP states as follows:

In the instance that activities as described in the project description become a nuisance and complaints are made, the following condition shall be applied to the establishment: Doors and windows are to remain closed at all times while any type of music or entertainment is playing.

Additionally, a standard condition for all Conditional Use Permits (Condition No. 2 of this CUP) states as follows:

Any condition imposed by the Planning Commission in granting this conditional use permit may be modified or eliminated, or new conditions may be added, provided that the Planning Commission shall first conduct a public hearing in the same manner as required for the granting of the original permit. No such modification shall be made unless the Commission finds that such modification is necessary to protect the public interest and/or neighboring properties, or, in the case of deletion of an existing condition, that such action is necessary to permit reasonable operation and use under the conditional use permit.

This item has been publicly noticed as required for a public hearing. The Commission has the ability to modify, eliminate or add new conditions to CUP 07-001, if the finding can be made that such modification is necessary to protect the public interest and/or neighboring properties.

Options: After opening the public hearing and taking public testimony, the Planning Commission is requested to take one of the actions listed below:

- A. Require that all amplified music and dancing be halted until all of the conditions of approval listed in CUP 07-001 have been addressed to the satisfaction of each respective City department and add a new condition of approval to CUP 07-001 that requires doors and windows to remain closed at all times while any type of music or entertainment is playing., and require a 3-month review by the Planning Commission;
- B. Require that all amplified music and dancing activities be halted until all of the conditions of approval listed in CUP 07-001 have been

addressed to the satisfaction of each respective City department and require a 3-month review by the Planning Commission;

- C. Amend, modify, or reject the above-listed action.

Attachments:

1. Police Dept. Complaint Summary
2. Resolution 07-0040
3. Revised Resolution Approving CUP 07-001
4. Newspaper and Mail Notice Affidavits

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**PASO ROBLES POLICE DEPARTMENT
INTERDEPARTMENTAL MEMORANDUM**

**Lisa Solomon
Chief of Police**

To: Darren Nash, Associate Planner
From: Captain Robert Burton
Date: 3-21-08
Subj: Downtown Brewing CUP Review

Per your request, I have listed below all complaints associated with Downtown Brewing since the approval of their Conditional Use Permit on 03/27/07. These complaints are all related to excessive noise and are all from the same reporting party or guests of the reporting party.

Complaints logged with Paso Robles Police Department Dispatch:

1. 5-21-07 @ 1137 hours – Loud music complaint regarding Downtown Brew and Crooked Kilt. RP Judy Hudson stated she had conversation about the same issues with 4104 and was asked to call when occurring. No further information (NFI)
2. 7-10-07 @ 0215 hours – Loud music complaint regarding DB by Hotel Cheval (NFI)
3. 8-23-07 @ 2304 hours – Loud music complaint regarding DB by Hotel Cheval (NFI)
4. 9-16-07 @ 0004 hours – Loud music complaint regarding DB by Lee Strakbein at Hotel Cheval (NFI)
5. 9-30-07 @ 0014 hours – Loud subjects complaint regarding DB by Hotel Cheval (NFI)
6. 10-13-07 @ 1637 hours – Loud music on patio regarding DB by Judy Hudson at Hotel Cheval (NFI)
7. 1-12-08 @ 2316 hours – Loud music complaint regarding DB from a hotel guest at Hotel Cheval (NFI)

Attachment 1
Police Dept. Summary
CUP 07-001
(Downtown Brew)

900 PARK STREET, PASO ROBLES, CA 93446 PH (805) 237-6464 FAX (805) 238-5592

RESOLUTION NO: 07-0040

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF EL PASO DE ROBLES
TO APPROVE CONDITIONAL USE PERMIT 07-001
(Downtown Brewing Co.)
APN: 009-106-015, 016, 017 & 009-103-012, 013

WHEREAS, section 21.16.200 of the Municipal Code of the City of El Paso de Robles requires approval of a conditional use permit for dance clubs in the C3-PD zone, and

WHEREAS, the applicant, Timothy L. Hodge on behalf of Downtown Brew restaurant, has filed a conditional use permit application to add dancing activities with amplified music to the existing restaurant located at 1108 Pine Street, and

WHEREAS, a public hearing was conducted by the Planning Commission on March 27, 2007, to consider the facts as presented in the staff report prepared for this project, and to accept public testimony regarding this conditional use permit request, and

WHEREAS, this application is Categorically Exempt from environmental review per Section 15301c of the State's Guidelines to Implement CEQA; and

WHEREAS, based upon the facts and analysis presented in the staff report, and public testimony received and subject to the conditions of approval listed below, the Planning Commission finds that the establishment, maintenance or operation for the requested use or building applied for, will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, convenience and general welfare of the persons residing or working in the neighborhood of such proposed use, or be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the City.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of El Paso de Robles does hereby approve Conditional Use Permit 07-001 subject to the following conditions:

1. This conditional use permit (CUP) authorizes the use of entertainment including amplified music which would include the "house" sound system and by DJs and dancing as an accessory to the restaurant use. The amplified music and dancing is restricted to 12:00 midnight cutoff on Friday, Saturday and Sunday nights and national holidays. All activities shall be kept indoors.
2. Any condition imposed by the Planning Commission in granting this conditional use permit may be modified or eliminated, or new conditions may be added, provided that the Planning Commission shall first conduct a public hearing in the same manner as required for the granting of the original permit. No such modification shall be made

Attachment 2
Resolution 07-0040
CUP 07-001
(Downtown Brew)

unless the Commission finds that such modification is necessary to protect the public interest and/or neighboring properties, or, in the case of deletion of an existing condition, that such action is necessary to permit reasonable operation and use under the conditional use permit.

3. All new and/or existing site and building mounted lighting shall be fully shielded so that light is directed downward and stays on-site. Cut sheets for new lighting fixtures or shields shall be submitted to the Community Development Department for approval prior to installation.
4. This CUP shall be reviewed after a three (3) month period at which time the project would be reviewed at an informal Planning Commission meeting to determine whether the intent of loitering and noise nuisance is being deterred/controlled. In the event that it is determined during this review that a nuisance exists, the Planning Commission can direct that a public hearing be scheduled to consider additional measures.
5. In the instance that activities as described in the project description become a nuisance and complaints are made, the following condition shall be applied to the establishment: Doors and windows are to remain closed at all times while any type of music or entertainment is playing.
6. Uniformed contract private security guards to be onsite during the hours of operation when entertainment is occurring. A minimum of two uniformed security guards shall be contracted by the business owner. The security guards shall stay on duty until 1-hour after the business has closed to help control loitering within and outside the business.
7. Interior and exterior surveillance cameras to record activities in areas open to the public and patrons. This will help law enforcement gather needed information when crimes occur.
8. Security lighting in the exterior perimeter and parking area to protect patrons and their vehicles from vandals and other types of crime. Prior to the installation of any exterior lighting, a lighting plan shall be submitted for review and approval by the Police Chief and the Planning Department. Any new and existing exterior lighting shall be fully shielded.
9. Noise level restrictions. The music generated from inside of the applicant's business should not be audible to the surrounding/neighborhood businesses. The applicant shall submit a sound mitigation plan to be prepared and implemented prior to the commencement of the night club operations to the satisfaction of the Community Development Director.
10. Prior to commencing the entertainment activities, the applicants shall apply for a Building Permit for tenant improvements as necessary, to make the necessary changes

to the building in order for it to comply with all necessary Building and Fire Codes related to the proposed change in use.

11. All existing and new signage (including temporary signs) shall comply with the City Sign Ordinance.
12. Prior to the issuance of a Certificate of Compliance/ commencement of the entertainment activities, all of the Departments involved (Building, Fire, Police & Planning) shall insure that all of the conditions of approval listed in this resolution have been satisfied to the satisfaction of each department representative.

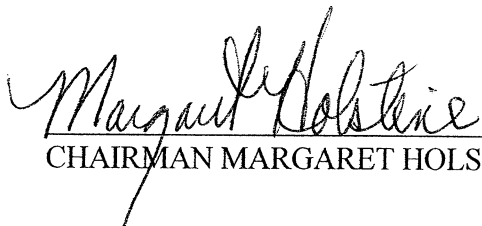
PASSED AND ADOPTED THIS 27th day of March 2007, by the following roll call vote:

AYES: Flynn, Steinbeck, Holstine, Tretch, Johnson

NOES: Menath, Withers

ABSENT: None

ABSTAIN: None



CHAIRMAN MARGARET HOLSTINE

ATTEST:



RON WHISENAND, PLANNING COMMISSION SECRETARY

RESOLUTION NO.: _____

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF EL PASO DE ROBLES
TO APPROVE CONDITIONAL USE PERMIT 07-001
(Downtown Brewing Co.)
APN: 009-106-015, 016, 017 & 009-103-012, 013

WHEREAS, The Planning Commission adopted Resolution 07-040 approving CUP 07-001 on March 27, 2007; and

WHEREAS, condition No. 4 of the resolution required that the CUP be reviewed by the Planning Commission after a 3-month time period, to determine whether the intent of loitering and noise nuisance is being deterred/controlled; and

WHEREAS, condition No. 5 of the resolution requires the addition of the following condition in the instance that the activities become a nuisance and complaints are made:

Doors and windows are to remain closed at all times while any type of music or entertainment is playing

and;

WHEREAS, the Police Department has received complaints related to excessive noise from Downtown Brew; and

WHEREAS, a public hearing was conducted by the Planning Commission on April 22, 2008, to consider the facts as presented in the staff report prepared for this project, and to accept public testimony regarding this conditional use permit request, and

WHEREAS, this application is Categorically Exempt from environmental review per Section 15301c of the State's Guidelines to Implement CEQA; and

WHEREAS, based upon the facts and analysis presented in the staff report, and public testimony received and subject to the conditions of approval listed below, the Planning Commission finds that the establishment, maintenance or operation for the requested use or building applied for, will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, convenience and general welfare of the persons residing or working in the neighborhood of such proposed use, or be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the City.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of El Paso de Robles does hereby continue to allow Conditional Use Permit 07-001 subject to the following conditions:

1. This conditional use permit (CUP) authorizes the use of entertainment including amplified music which would include the “house” sound system and by DJs and dancing as an accessory to the restaurant use. The amplified music and dancing is restricted to 12:00 midnight cutoff on Friday, Saturday and Sunday nights and national holidays. All activities shall be kept indoors.
2. Doors and windows are to remain closed at all times while any type of music or entertainment is playing.
3. Any condition imposed by the Planning Commission in granting this conditional use permit may be modified or eliminated, or new conditions may be added, provided that the Planning Commission shall first conduct a public hearing in the same manner as required for the granting of the original permit. No such modification shall be made unless the Commission finds that such modification is necessary to protect the public interest and/or neighboring properties, or, in the case of deletion of an existing condition, that such action is necessary to permit reasonable operation and use under the conditional use permit.
4. All new and/or existing site and building mounted lighting shall be fully shielded so that light is directed downward and stays on-site. Cut sheets for new lighting fixtures or shields shall be submitted to the Community Development Department for approval prior to installation.
5. This CUP shall be reviewed after a three (3) month period at which time the project would be reviewed at an informal Planning Commission meeting to determine whether the intent of loitering and noise nuisance is being deterred/controlled. In the event that it is determined during this review that a nuisance exists, the Planning Commission can direct that a public hearing be scheduled to consider additional measures.
6. Uniformed contract private security guards to be onsite during the hours of operation when entertainment is occurring. A minimum of two uniformed security guards shall be contracted by the business owner. The security guards shall stay on duty until 1-hour after the business has closed to help control loitering within and outside the business.
7. Interior and exterior surveillance cameras to record activities in areas open to the public and patrons. This will help law enforcement gather needed information when crimes occur.
8. Security lighting in the exterior perimeter and parking area to protect patrons and their vehicles from vandals and other types of crime. Prior to the installation of any exterior lighting, a lighting plan shall be submitted for review and approval by the Police Chief and the Planning Department. Any new and existing exterior lighting shall be fully shielded.

9. Noise level restrictions. The music generated from inside of the applicant's business should not be audible to the surrounding/neighborhood businesses. The applicant shall submit a sound mitigation plan to be prepared and implemented prior to the commencement of the night club operations to the satisfaction of the Community Development Director.
10. All existing and new signage (including temporary signs) shall comply with the City Sign Ordinance.
11. Prior to the commencement of the entertainment activities, all of the Departments involved (Building, Fire, Police & Planning) shall insure that all of the conditions of approval listed in this resolution have been satisfied to the satisfaction of each department representative.

PASSED AND ADOPTED THIS 22nd day of April 2008, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CHAIRMAN ED STEINBECK

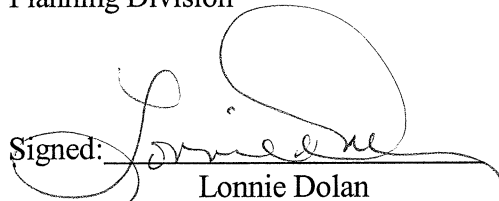
ATTEST:

RON WHISENAND, PLANNING COMMISSION SECRETARY

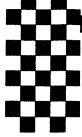
AFFIDAVIT
OF MAIL NOTICES
PLANNING COMMISSION/CITY COUNCIL PROJECT NOTICING

I, Lonnie Dolan, employee of the City of El Paso de Robles, California, do hereby certify that the mail notices have been processed as required for Conditional Use Permit 07-001 (Hodge/Downtown Brew – 1108 Pine Street) on this 11th day of April 2008.

City of El Paso de Robles
Community Development Department
Planning Division

Signed: 
Lonnie Dolan

forms\mailaffi.691



THE Newspaper of the Central Coast TRIBUNE

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In The Superior Court of The State of California
In and for the County of San Luis Obispo
AFFIDAVIT OF PUBLICATION

AD #6714953
CITY OF PASO ROBLES

STATE OF CALIFORNIA,

ss.

County of San Luis Obispo

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen and not interested in the above entitled matter; I am now, and at all times embraced in the publication herein mentioned was, the principal clerk of the printers and publishers of THE TRIBUNE, a newspaper of general Circulation, printed and published daily at the City of San Luis Obispo in the above named county and state; that notice at which the annexed clippings is a true copy, was published in the above-named newspaper and not in any supplement thereof - on the following dates to wit; APRIL 12, 2008 that said newspaper was duly and regularly ascertained and established a newspaper of general circulation by Decree entered in the Superior Court of San Luis Obispo County, State of California, on June 9, 1952, Case #19139 under the Government Code of the State of California.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.


(Signature of Principal Clerk)

DATED APRIL 12, 2008
AD COST: \$73.47

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of El Paso de Robles will hold a Public Hearing to review the status of Conditional Use Permit 07-001, an existing use permit allowing the Downtown Brew restaurant, the ability to have amplified music and dancing as an accessory to the existing restaurant. The site is located at 1108 Pine Street.

This hearing will take place in the City Hall/ Library Conference Room, 1000 Spring Street, Paso Robles, California, at the hour of 7:30 PM on Tuesday, April 22, 2008, at which time all interested parties may appear and be heard.

Comments on the Conditional Use Permit may be mailed to the Community Development Department, 1000 Spring Street, Paso Robles, CA 93446 provided that such comments are received prior to the time of the hearing.

If you challenge the Conditional Use Permit application in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

April 12, 2008 6714953