



## PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**DATE:** December 16, 2020

**TO:** Hearing Officer

**SUBJECT:** Conditional Use Permit #6856

**LOCATION:** 3405 East Foothill Boulevard

**APPLICANT:** Lisa Hall, Four H Investment Group

**ZONING DESIGNATION:** EPSP-d2-CG-C (East Pasadena Specific Plan, Subarea d2 General Commercial District)

**GENERAL PLAN DESIGNATION:** Medium Commercial

**CASE PLANNER:** Alison Walker

**STAFF RECOMMENDATION:** Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Conditional Use Permit #6856 with the conditions in Attachment B

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**PROJECT PROPOSAL:** Conditional Use Permit: To allow exterior walk-up windows in conjunction with the operation of a new Restaurant, Formula Fast Food (Handel's Ice Cream) use. The walk-up windows will be used by customers for the ordering and serving of food.

**ENVIRONMENTAL DETERMINATION:** This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15301, Class 1, Existing Facilities) and there are no features that distinguish this project from others in the exempt class and, therefore, there are no unusual circumstances. This section specifically applies to the operation, permitting, licensing or minor alteration of existing structures where there is negligible or no expansion of the use. The walk-up windows in conjunction with the operation of a restaurant is a negligible expansion of use.

**BACKGROUND:**

**Site characteristics:** The subject site is located in the Hastings Village Shopping Center which is bounded by Electronic Drive to the north, North Halstead Street to the east, Sierra Madre Villa Avenue to the west, and East Foothill Boulevard to the south. The subject site is approximately 868,500 square feet in size and is developed with multiple commercial buildings and a shared parking lot to serve the buildings' tenants. The proposed restaurant (Handel's Ice Cream) is located to the south of the shopping center driveway entrance on North Halstead Street. The restaurant will occupy an existing stand-alone tenant building, formerly occupied by a Formula Fast Food Restaurant (Togo's) with an area of approximately 1,650 square feet.

**Adjacent Uses:** North: Administrative Business Professional Office  
South: Residential Multi-Family  
East: Commercial  
West: Residential Single Family

**Adjacent Zoning:** North: EPSP-d2-CO-D (East Pasadena Specific Plan subarea d2 commercial office district)  
South: EPSP-d2-CG-B-2 (East Pasadena Specific Plan subarea d2 general commercial district.) and EPSP-d2-CG-B-1 (East Pasadena Specific Plan subarea d2 general commercial district)  
East: EPSP-d3-CO-E-2 (East Pasadena Specific Plan - Commercial General) and EPSP-d2-CO-B-5 (East Pasadena Specific Plan subarea d2 commercial office district)  
West: RS-6 (Residential Single Family)

**Previous Cases:** Conditional Use Permit #3901 - A Conditional Use Permit to allow on-site beer, wine, and distilled spirits sales (full alcohol) in conjunction with an existing restaurant (Chipotle Mexican Grill) at 325 N. Halstead Ave. Approved on July 17, 2001.

**PROJECT DESCRIPTION:**

The applicant, Lisa Hall of Four H Investment Group, has submitted a Conditional Use Permit application to allow four walk-up windows in conjunction with the operation of a Fast Food Restaurant (Handel's Ice Cream) located in the EPSP-d2-CG-C zoning district. The proposed Formula Fast Food restaurant would occupy an existing stand-alone tenant building, formerly occupied by a Formula Fast Food Restaurant (Togo's). The building is approximately 1,650 square feet in gross floor area, and would operate from 11:00 a.m. to 10:00 p.m. daily. The walk-up windows would be used for customer ordering and pick-up, and there would be no customer access to the interior of the building. A Conditional Use Permit is required for a walk-up window, within the EPSP-d1-CG-C zoning district.

## **ANALYSIS:**

The applicant requests a Conditional Use Permit to allow four walk-up windows for the ordering and pick-up of food with the operation of a Formula Fast Food restaurant. A Formula Fast Food restaurant (hereafter: restaurant) is defined as a fast food restaurant which is required by contractual or other arrangements to offer standardized employee uniforms, exterior design, food preparation, ingredients, interior decor, menus, or signs; or adopts an appearance, food presentation format, or name which causes it to be substantially identical to another restaurant regardless of ownership or location. Furthermore, this land use type sells prepared food either indoors or outdoors in disposable containers (e.g., paper or plastic).

For the proposed restaurant, customers would place an order online or by approaching one of four walk-up window, and would be able to pick-up their order at the same window. The interior of the tenant suite would be dedicated to production and storage of ice cream and other items related to the use, and therefore, Handel's Ice Cream would not have an interior dining room or any indoor area open to customers. In regards to dining area, the building is located next to an outdoor plaza/courtyard area that is approximately 2,000 square feet in size and is open for customer seating and dining.

The walk-up windows would be installed at locations intended to have a minimal impact on the surrounding land uses, as the windows would be located on the western and southern elevations of the existing tenant building facing the parking lot and outdoor courtyard area. In addition, amplified sound related to the walk-up windows are not be permitted, and the walk-up windows would only be available during the hours of operation for the restaurant use. The proposed location and limited use of the walk-up windows would provide minimal impact on the neighboring land uses.

Section 17.40.070 of the Zoning Code states that uses on a site that are located within 150 feet of a residential zoning district may operate between the hours of 7:00 a.m. and 10:00 p.m. by right. The nearest residential zoning district is 65 feet west of the shopping center site; the restaurant itself is located 745 feet away from the residential zoning district. The proposed hours of operation are between 11:00 a.m. and 10:00 p.m. and are in compliance with the Zoning Code.

As previously stated, the structure was previously used by a fast food restaurant and the requested CUP would not create additional square footage to the restaurant or change the use to a classification that requires a greater parking requirement. As such, pursuant to the Zoning Code, the parking required for the proposed restaurant is not in question in regards to this CUP.

In order to prevent impacts, and to ensure the use does not deviate from the approved use, staff has proposed conditions on the project to require that the tenant maintain the premises free of litter, prohibit the use of any outdoor sound amplification system, and the that the walk-up windows operating hours coincide with the hours of operation for the restaurant. Consistent with Zoning Code Section 17.50.260.B, the business name shall be printed on all disposable containers. As conditioned, the walk-up windows would have minimal impact on the surrounding land uses.

## **GENERAL PLAN CONSISTENCY AND SPECIFIC PLAN CONSISTENCY:**

### General Plan Land Use:

As conditioned, the proposed use is consistent with General Plan Land Use Element *Policy 12.1, Vital Commercial Districts*. The walk-up windows serving the Formula Fast Food restaurant tenant

space, along with the implementation of the conditions of approval, would enhance the commercial district by creating a unique, quality dining experience. The walk-up windows allow customers to order and pick-up their ice cream, then use the outdoor seating provided in the courtyard adjacent to the tenant building. In addition, the project is consistent with the Land Use Element *Policy 11.1, Business Expansion and Growth*, which supports the growth and success of businesses that create new job opportunities and productive and satisfying employment for Pasadena residents. It would bolster a diverse economy base and would be a long-term economic contribution to the City.

#### East Pasadena Specific Plan:

The site is located within the EPSP-d2-CG-C zoning district, also known as the Foothill, Rosemead- Sierra Madre Villa area, which encourages a focus on industrial and office development with supporting retail and commercial development. As conditioned, the walk-up windows provide a commercial use consistent with the surrounding uses in the vicinity and specifically within the existing Hastings Village Shopping Center in which the new restaurant would be located. The request for walk-up windows would enhance the services provided within the commercial center by providing a quality dining experience for customers, while introducing a unique commercial use to the existing Hastings Village Shopping Center. The addition of Handel's Ice Cream to the commercial center would provide a new use to the residents in the residential zoning district to the west and the tenants of other commercial and office uses in the area. Therefore, the introduction of the walk-up windows in conjunction with the new Handel's Ice Cream restaurant use complements the surrounding existing residential and commercial uses and provides a variety in land uses.

#### **ENVIRONMENTAL REVIEW:**

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15301, Class 1, Existing Facilities) and there are no features that distinguish this project from others in the exempt class and, therefore, there are no unusual circumstances. This section specifically applies to the operation, permitting, licensing or minor alteration of existing structures where there is negligible or no expansion of the use. The tenant building was previously occupied by a Formula Fast Food Restaurant, therefore the land use would not change. The walk-up windows in conjunction with the operation of a restaurant is a negligible expansion of use.

#### **REVIEW BY OTHER CITY DEPARTMENTS:**

The proposal was provided to the Fire Department, Health Department, Building and Safety Division, Design and Historic Preservation Section, and Police Department for review. The Building and Safety Division and Public Health Department provided comments which are included as conditions of approval.

#### **CONCLUSION:**

It is staff's recommendation that the findings necessary for approval of the Conditional Use Permits can be made. The operation of four restaurant walk-up windows would complement other existing uses in the vicinity, and as conditioned, would have minimal impact on the surrounding land uses. Conditions of approval and periodic condition monitoring would ensure that the use would not deviate from the planned operation reviewed under this application. Therefore, staff

recommends that the Hearing Officer approve the application with the findings in Attachment A and the Conditions of Approval in Attachment B.

**Attachments:**

Attachment A: Recommended Specific Findings

Attachment B: Recommended Conditions of Approval

**ATTACHMENT A**  
**SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #6856**

Conditional Use Permit: To Allow Walk-up Windows in Conjunction with a Restaurant Use

1. *The proposed use is allowed with a Conditional Use Permit (Major and Minor) or Hillside Development Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code.* The subject property is located in the Foothill, Rosemead-Sierra Madre Villa area of the East Pasadena Specific Plan (EPSP-d2-CG-C). Zoning Code Section 17.32.050 (EPSP District Land Uses and Permit Requirements), permits the Restaurants with walk-up window use subject to the approval of a Conditional Use Permit. The proposed operations will comply with all applicable provisions of the Zoning Code.
2. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district.* The purpose of the Pasadena Zoning Code is to protect and promote the public health, safety and general welfare, and to implement the policies of the General Plan by classifying and regulating the uses of land and structures within the City of Pasadena in a manner consistent with the General Plan. To achieve this purpose, it is the intent of this Zoning Code to in part, maintain and protect the value of property, ensure the provision of adequate open space for light, air, and fire safety, and ensure compatibility between land uses. The purpose of the EPSP zoning district is to implement the East Pasadena Specific Plan. This purpose includes establishing a vital business center consisting primarily of employment activities with some retail and entertainment uses serving the residential and business community of East Pasadena and the City as a whole. The proposed restaurant will provide employment opportunities and will serve the residents and business community. In order to protect and promote the public health, safety and general welfare, staff has proposed conditions on the project to require that the tenant maintain the premises free of litter, prohibit the use of any outdoor sound amplification system, and the that the walk-up windows operating hours coincide with the hours of operations for the restaurant. Therefore, the proposed location of the restaurant use complies with the purpose of the Zoning Code and zoning district
3. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.* As conditioned, the proposed use is consistent with General Plan Land Use Element *Policy 12.1, Vital Commercial Districts* and Land Use Element *Policy 11.1, Business Expansion and Growth*. The walk-up windows serving the Formula Fast Food restaurant tenant space, along with the implementation of the conditions of approval, will enhance the commercial district by creating a unique, quality dining experience. The walk-up windows allow customers to order and pick-up their ice cream, then use the outdoor seating provided in the courtyard adjacent to the tenant building. The proposed use will bolster a diverse economy base and would be a long-term economic contribution to the City and EPSP-d2-CG-C zoning district which allows a range of commercial businesses.

The site is located within the EPSP-d2-CG-C zoning district, also known as the Foothill, Rosemead- Sierra Madre Villa area, which encourages a focus on industrial and office development with supporting retail and commercial development. The request for walk-up windows will enhance the services provided within the commercial center by providing a quality dining experience for customers, while introducing a unique commercial use to the existing Hastings Village Shopping Center. The addition of Handel's Ice Cream to the

commercial center would provide a new use to the residents in the residential zoning district to the west and the tenants of other commercial and office uses in the area.

4. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.* As it relates to the health, safety, and general welfare of persons residing or working in the neighborhood of the proposed use, the proposed walk-up windows will be complementary to the existing Hastings Village Shopping Center, and will not have an adverse impact. The walk-up windows will be installed at locations intended to have a minimal impact on the surrounding land uses, as the windows will be located on the western and southern elevations of the existing tenant building facing the parking lot and outdoor courtyard area. In addition, amplified sound related to the walk-up window are not permitted, and the walk-up window will operate consistent with the hours of operation for the restaurant use which will be 11:00 A.M. to 10:00 P.M, daily. As proposed, the walk-up window will operate in a way that, as conditioned, is not anticipated to have an adverse impact on health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.
5. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.* The walk-up windows, in conjunction with the Formula Fast Food restaurant, will enhance the operations of the restaurant by providing a convenient method for patrons to order and pick-up their food. There will not be an amplified sound system associated with the pick-up window. The walk-up window is located adjacent to a courtyard area in which customers may sit and consume their food. The operation of the walk-up windows is not considered a problematic use and will not contribute to an aggravation of existing problems in the vicinity. Noncompliance with any of the conditions of approval or any of the provisions of the Zoning Code may result in the revocation of the Conditional Use Permit.
6. *The design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.* The windows will be located on the western and southern façade of the building, facing the parking lot and outdoor courtyard area, respectively, and will be aesthetically consistent with the existing building architecture. There is no increase in square footage and no change in building footprint for the creation of the walk-up windows. The new windows for customer pick-up will be locked and alarmed when the restaurant is closed. As conditioned, the walk-up windows are compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.

**ATTACHMENT B**  
**CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #6856**

The applicant or successor in interest shall meet the following conditions:

General

1. The site/floor plans submitted for building permits and/or future development shall substantially conform to the site/floor plans stamped "Approved at Hearing, December 16, 2020," except as modified herein.
2. The right granted under this application must be enacted within 36 months from the effective date of approval. It shall expire and become void, unless an extension of time is approved in compliance with Section 17.64.040.C of the Zoning Code.
3. The approval of this application authorizes four walk-up windows in conjunction with the operation of a 1,650-square-foot Formula Fast Food restaurant, as depicted in the approved floor plan.
4. The Zoning Administrator, at any time, can call for a review of the approved conditions at a duly noticed public hearing. These conditions may be modified or new conditions added to reduce any impacts of the use. The Hearing Officer may revoke the Conditional Use Permit if sufficient cause is given.
5. Any change to these conditions of approval or expansion of the use shall require the modification of this Conditional Use Permit or a new Conditional Use Permit.
6. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
7. The final decision letter and conditions of approval shall be incorporated in the building plans as part of the building plan check process.
8. The proposed project, Activity Number **ZENT2020-10053**, is subject to a **Final Zoning Inspection**. A Final Zoning Inspection is required for the project prior to the issuance of a Certificate of Occupancy. Contact the Planning Case Manager, Alison Walker at (626) 744-6742 to schedule an inspection appointment time.

Planning Division

9. The walk-up window operating hours shall coincide with restaurant hours of operation.
10. The business name shall be printed on all disposable containers and napkins.
11. No sound amplification system shall be used at the outdoor dining area and/or walk-up window.
12. Noise shall comply with the regulations of Chapter 9.36 of Pasadena Municipal Code (Noise Ordinance).
13. Any graffiti that should appear on the site shall be removed within 48 hours.

14. A litter clean-up plan shall be submitted for review and approval by the Zoning Administrator, prior to the issuance of any building permits. The plan's objective is to maintain an attractive site, free of litter and discarded material. The litter clean-up plan will cover the area identified as the "Enlarged Site Plan" in the plans stamped "Approved at Hearing, December 16, 2020". This would include also include the right-of-way frontage on Halstead Street shown on the site plan. The litter clean-up plan will identify when the clean-up would occur. At a minimum it will occur three times per day and would include a clean-up prior to the start of operations and at the end of operations. The plan will also identify the location of exterior trash receptacles.
15. Compliance with the City of Pasadena Refuse Storage regulations, see Section 17.40.120 of the Pasadena Municipal Code, shall be maintained at all times.
16. Truck loading, unloading, and trash pick-up for the premises are allowed only between the hours of 7:00 a.m. to 9:00 p.m., Monday through Friday, and between 9:00 a.m. to 5:00 p.m. on Saturdays. No truck loading, unloading, or trash pick-up is allowed on Sundays, as specified in Section 17.40.070.C. (Limited Hours of Operation) of the Zoning Code. Loading and unloading activities shall be within the permitted hours and shall not continue afterwards.

#### Building Division

17. Project must comply with the Current Edition of California Building Code, California Electrical Code, California Plumbing Code, California Mechanical Code, California Energy Code, California Green Building Standard Code and the City of Pasadena Municipal Code. The governing edition is based on the date in which the project is submitted to the City of Pasadena for review.
18. On the building plan check submittal, applicant shall provide a Building Code Analysis on the title sheet. Include the code(s) information for each building proposed: Descriptive scope of work, occupancy, assessor's parcel number, number of stories, type of construction, fire sprinklers, floor area, height, and allowable floor area.
19. On the building plan check submittal, applicant shall photocopy to plans and complete the BEST MANAGEMENT PRACTICE page 1(form must be singed). Photocopy any other applicable pages and cross reference the location at the site plan, i.e. the material storage, the concrete waste management, etc. These forms can be found at <https://www.cityofpasadena.net/planning/building-and-safety/bs-applications-forms/#informational-handouts>
20. On the building plan check submittal, applicant shall photocopy to plans and complete the 2019 CALIFORNIA GREEN BUILDING STANDARDS CODE WITH CITY OF PASADENA AMENDMENTS FORMS. These forms are being provided attach and can be found at <https://www.cityofpasadena.net/planning/building-and-safety/bs-applications-forms/#informational-handouts>.
21. On the building plan check submittal, applicant shall provide compliance with accessibility per CBC Chapter 11B.
22. On the building plan check submittal, applicant shall show accessible route within the site from accessible parking spaces and accessible passenger loading zones; public streets and sidewalks; public transportation stops to the accessible building or facility entrances. Where more than one route is provide, all routes must be accessible. Accessible route shall be the

most practical direct route feasible and may incorporate pedestrian ramps, curbs ramps, etc... All accessible routes shall comply unless there is an approved exception.

23. On the building plan check submittal, applicant shall provide to architectural plans, provide Structural, Shoring, Plumbing, Mechanical, Electrical plans, and grading plans as required. No deferred submittal.
24. Separate permits are required for the following: Mechanical, Electrical, Plumbing, Fire Sprinkler, Demolition, Block walls, others.

Public Health Department

25. Plan submittal to the Health Department will be required for the construction or remodel of an food facility. All food/beverage facilities must comply with PMC 8.12 and California Retail Food Code - excerpt from California Health and Safety Code Part 7 California Retail Food Code.
26. Requirements for Pass or Drive thru Windows: Pass or drive through window service openings shall be limited to 216 square inches each. The service openings shall not be closer together than 18 inches. Each opening shall be provided with a solid or screened window, equipped with a SELF-CLOSING device. Screening shall be at least 16 mesh per square inch. Pass or drive through windows of up to 432 square inches are APPROVED if equipped with an air curtain device. The counter surface of the service openings shall be SMOOTH and EASILY CLEANABLE.