



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: October 6, 2021

TO: Hearing Officer

SUBJECT: Modification of Conditional Use Permit #1813

LOCATION: 175 East Holly Street

APPLICANT: Eden Garden Bar and Grill

ZONING DESIGNATION: CD-2 (Central District Specific Plan, subarea 2, Civic Center/Midtown subdistrict)

GENERAL PLAN DESIGNATION: Medium Mixed-Use (0.00 – 2.25 FAR)

CASE PLANNER: Jennifer Driver

STAFF RECOMMENDATION: Adopt the Environmental Determination and the Specific Findings in Attachment A to: 1) **disapprove** the Modification to Conditional Use Permit #1813; and, 2) **disapprove** the Expressive Use Permit.

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- PROJECT PROPOSAL:**
- 1) Modification to Conditional Use Permit #1813: To modify two conditions of approval: a) Condition #2 to allow amplified live entertainment outdoors and to increase the hours allowed for outdoor entertainment, and b) Condition #3 to allow amplified live entertainment indoors.
 - 2) Expressive Use Permit: To establish a nightclub land use through the addition of 290 square-feet of live performance and dance floor areas.

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)(5); Administrative Code, Title 14, Chapter 3, §15270(a), Projects which are Disapproved. This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

BACKGROUND:

Site characteristics:

The subject site is a 17,112 square-foot rectangular shaped lot located on the northwest corner of East Holly Street and North Marengo Avenue. The site is developed with a two-story commercial structure comprised of the one-story 5,909 square-foot restaurant, a one-story theater (Parson’s Nose), and second-floor offices above the theater. The site directly abuts a four-story residential development to the west and north.

Adjacent Uses:

- North – Multi-Family Residential and Club, Lodge and Private Meeting Hall
- South – Religious Facility
- East – Single-Room Occupancy
- West – Multi-Family Residential and Commercial

Adjacent Zoning:

- North – CD-2 (Central District Specific Plan, subarea 2, ‘Civic Center/Midtown’)
- South – CD-2 (Central District Specific Plan, subarea 2, ‘Civic Center/Midtown’)
- East – CD-2 (Central District Specific Plan, subarea 2, ‘Civic Center/Midtown’)
- West – CD-2 (Central District Specific Plan, subarea 2, ‘Civic Center/Midtown’)

Previous zoning cases on this property:

EUP #6511: Expressive Use Permit to allow the establishment of a theater (commercial entertainment land use) with a maximum of 49 spectators within the CD-2 zoning district. An Expressive Use Permit is required to establish a commercial entertainment land use (Parson’s Nose Theater). Approved with conditions February 3, 2017.

CUP #1813 – Conditional Use Permit to establish live entertainment in conjunction with an existing restaurant use. The live entertainment consists of one or two pianists, violinists, flutists or guitarists. A Conditional Use Permit was required for live entertainment in the CD District. Approved with conditions on February 22, 1988.

CUP #1726 – Conditional Use Permit to expand an existing restaurant so that there will be a 300 square-foot outdoor dining area. A Conditional Use Permit was required to have and/or expand a restaurant in the Civic Center District. Approved with conditions on June 17, 1987.

CUP #1612 – Conditional Use Permit to establish a restaurant in the CD-3 (Civic Center District). A Conditional Use Permit was required to open a restaurant in the Civic Center District. Approved with conditions on June 4, 1986.

PROJECT DESCRIPTION:

The applicant and business owner, Eden Garden Bar and Grill, has submitted an application to modify Conditional Use Permit (CUP) #1813, approved on February 22, 1988, which allowed for limited live entertainment in conjunction with an existing restaurant use (Restaurant with Limited Live Entertainment land use). The CUP included four conditions of approval, two of which limited the type of, and hours for, indoor and outdoor entertainment associated with the existing restaurant.

The current modification application seeks to revise the following two existing conditions of approval in order to allow for amplified live entertainment indoors and outdoors, to increase the hours allowed for outdoor entertainment and to allow a dance floor for customer dancing, both indoors and outdoors:

Condition #2:

Current: *“Outdoor Entertainment shall be limited to one violinist, guitar or flutist with outdoor entertainment limited to hours of 11:00 a.m. to 11:00 p.m. both weekends and weekdays.”*

Proposed: *Outdoor Entertainment shall be limited to Thursdays from 9:00 p.m. to 12:00 a.m., Saturdays from 12:00 p.m. to 5:00 p.m. and Sundays from 12:00 p.m. to 12:00 a.m. Live entertainment includes a 75 square-foot performing area outdoors for amplified live music, singers, dancers, DJ etc.*

Condition #3:

Current: *“Hours of indoor entertainment shall be limited to 11:00 a.m. to 1:00 a.m. weekends and 5:00 p.m. to 12:00 a.m. weekdays. The live entertainment shall consist of an unamplified piano with unamplified instrumental accompaniment of either violin, flute or guitar.”*

Proposed: *Indoor entertainment shall be limited to Fridays from 9:00 p.m. to 1:00 a.m., Saturdays from 12:00 p.m. to 1:00 a.m. and Sundays from 12:00 p.m. to 5:00 p.m. Live entertainment includes a 75 square-foot performing area indoors for amplified live music, singers, dancers, DJ etc.*

Additionally, the applicant is requesting permission to have live entertainment during private events Mondays through Wednesdays from 11:00 a.m. to 12:00 a.m., either inside or outside, but not both at the same time.

Lastly, the applicant is proposing two 70 square-foot dance floors, one indoors and one outdoors, in conjunction with the two 75 square-foot live performance areas. Per the City's Zoning Code, a restaurant may provide accessory live entertainment, where the performance area does not exceed 75 square feet and customer dancing does not occur (Restaurant with Limited Live Entertainment land use). However, the use is classified as a nightclub (commercial entertainment) if the performance area exceeds 75 square feet or customer dancing is provided. As such, by adding two 75 square-foot performance areas and two 70 square-foot dance floors for customer dancing, for a total of 290 square feet of live entertainment, the existing restaurant use with limited live entertainment, would be reclassified as a nightclub and an Expressive Use Permit is required to establish a nightclub.

BACKGROUND

In June 1986, CUP #1612 was approved, for a prior operator, allowing for the establishment of a restaurant at the subject location, with a subsequent tenant expansion in 1987, approved by CUP #1726. In February 1988, a prior operator of the subject restaurant obtained CUP #1813 to permit limited live entertainment. The current restaurant operator, Eden Garden Bar and Grill, received approval of a business license to operate on August 12, 2008 and opened late 2008/early 2009.

The subject restaurant occupies a 5,909 square-foot, ground floor portion of the existing two-story building. The front portion of the restaurant is comprised of a 1,782 square-foot indoor dining area and an adjoining 1,783 square-foot outdoor dining area. The rear portion of the tenant space contains the back-of-house operations. The outdoor dining area is open air except for a retractable awning that covers a part of the dining area. Between the indoor area and outdoor dining areas are several doors and windows that can be opened or shut and the backside of the restaurant has several windows and doors directly facing the abutting residential building to the north, located approximately nine feet away.

ANALYSIS:

1) Modification to Conditional Use Permit #1813

The CUP process allows the City to review a project to determine if the proposed project would be compatible with the surrounding area and require adherence to specific conditions related to the operation of the proposed use. In order to approve a CUP, six specific findings must be made in the affirmative for each of the CUP requests. These findings relate to a project meeting the intent and purpose of the subject property's Zoning District and the Zoning Code, not being detrimental to the surrounding properties, and being compatible with surrounding uses among other things.

The subject site is located within the CD-2 zoning district where, pursuant to Zoning Code Section 17.30.030, Table 3-1 (Allowed Uses and Permit Requirements for Central District Zoning Districts), a Restaurant with Limited Live Entertainment land use is permitted by-right. However, CUP #1813 approved this use at the proposed site with conditions of approval, as was required at the time of approval. The conditions of approval regulate the hours of live entertainment only. As part of their application, the applicant stated that the hours of operation for the restaurant, which are not restricted by the existing conditions of approval, are 11:00 a.m. to 12:00 a.m., Sunday, Tuesday, Wednesday and Thursday, and 11:00 a.m. to 1:00 a.m. Friday and Saturday. The restaurant is closed to the public on Mondays.

As stated above, the application requests modification of two conditions of approval to expand the permitted type of indoor and outdoor live entertainment, to extend the hours for live entertainment outdoors, and to allow a dance floor for customer dancing, both indoors and outdoors. As such, in order to request the changes to the conditions, a Major Modification to CUP #1813 and an Expressive Use Permit is required. Section 17.65.050 permits changes to an approved project subject to the same procedures as the original approval. Before approval of the changes, the applicable review authority is required to make the findings required for the original approval, and an additional finding that there are changed circumstances sufficient to justify the modification of the original approval.

Currently, CUP #1813 condition #2 restricts outdoor entertainment to one live performer, and limits the outdoor entertainment from 11:00 a.m. until 11:00 p.m., daily. The applicant is requesting the ability to allow for a variety of different amplified live entertainment options outdoors including live music, singers, dancers or a DJ in a designated 75 square-foot area. In addition, the applicant is requesting to extend the hours allowed for outdoor entertainment to 12:00 a.m.

on Thursdays and Sundays, in lieu of the previously permitted 11:00 p.m. The applicant has also stated as part of their application that there will be no outdoor entertainment on Fridays and limited hours of outdoor entertainment on Saturdays until 5:00 p.m.

While the current condition does not specify the use of ‘*amplified*’ or ‘*unamplified*’ live entertainment outdoors, with the omission of the either word in the condition, and the wording in condition #3, it is inferred that the permitted entertainment outdoors be *unamplified*. As a result, in the modification request, the applicant has specifically requested a change in the condition to allow for *amplified* live entertainment outdoors.

Currently, CUP #1813 condition #3 restricts indoor entertainment to a maximum of two live unamplified performers, and limits the indoor entertainment from 11:00 a.m. to 1:00 a.m. weekends, and 5:00 p.m. to 12:00 a.m. weekdays. The applicant is requesting the ability to allow for a variety of different amplified live entertainment options indoors including live music, singers, dancers or a DJ in a designated 75 square-foot area. In addition, the applicant is requesting to retain the originally approved hours for indoor entertainment until 1:00 a.m. on Fridays and Saturdays, and 12:00 a.m. on Sundays and Thursdays.

On Mondays, when the restaurant is closed to the public, and on Tuesdays and Wednesdays, when no live entertainment is proposed, the applicant requests the ability to have private events, which could include live entertainment either indoors or outdoors, from 11:00 a.m. until 12:00 a.m. The indoor and outdoor live entertainment for private events would not occur at the same time.

Additionally, the applicant is requesting to have two 70 square-foot customer dancing areas, one indoors and one outdoors, in conjunction with the live entertainment in each area, which would reclassify the restaurant use as a nightclub, and an Expressive Use Permit is required. (See discussion below on the requested Expressive Use Permit).

The following table summarizes the requested hours for indoor or outdoor entertainment, as well as the overall hours of operation for the restaurant:

Requested Hours and Type of Entertainment						
	<u>Outdoor Entertainment</u> 75 sf Live Performance Area 70 sf of Customer Dancing area		<u>Indoor Entertainment</u> 75 sf Live Performance Area 70 sf of Customer Dancing area		Restaurant Hours	
	Start	End	Start	End	Start	End
Monday	Private Events**	Private Events**	Private Events**	Private Events**	closed	closed
Tuesday	Private Events**	Private Events**	Private Events**	Private Events**	11:00 AM	12:00 AM
Wednesday	Private Events**	Private Events**	Private Events**	Private Events**	11:00 AM	12:00 AM
Thursday	9:00 PM	12:00 AM***	none	none	11:00 AM	12:00 AM
Friday	none	none	9:00 PM	1:00 AM	11:00 AM	1:00 AM
Saturday*	12:00 PM	5:00 PM	12:00 PM	1:00 AM	11:00 AM	1:00 AM
Sunday*	12:00 PM	12:00 AM***	12:00 PM	5:00 PM	11:00 AM	12:00 AM

* Live entertainment will be in either the outdoor or indoor areas, but not both areas at the same time.

** Live entertainment will be available during private events in either the indoor or outdoor areas, but not both.

*** Increase in hours beyond currently permitted 11:00 p.m.

Per Zoning Code Section 17.40.070, businesses within the Central District are not subject to limited hours of operation, and can operate 24 hours a day, seven days a week, even when abutting a residential use. As such, if CUP #1813 did not apply and a new restaurant were to occupy the tenant space, the restaurant would be permitted unrestricted hours of operation as

well as the option to have a 75 square-foot live performance area, but no customer dancing. However, as the property is subject to CUP #1813, the restaurant is subject to the conditioned restrictions for live entertainment indoors and outdoors and any modifications require approval by the decision maker.

The City, while supportive of a variety of dining and entertainment uses in the Central District Specific Plan, has been sensitive to nightclubs and similar uses, particularly when abutting residential uses. It is staff's position that while some limited live entertainment (up to 75 square feet) in the form of a live DJ or live band should be allowed as part of the "Restaurants with Limited Live Entertainment" definition, the restaurant shall remain first and foremost a restaurant. To allow for live entertainment beyond this limited scope and to allow for customer dancing would potentially result in impacts from a business that is not compatible when in proximity to residential uses, such as a nightclub.

Furthermore, staff received records from the Pasadena Police Department for Police calls for service related to Eden Garden Bar and Grill, from January 1, 2018 until September 22, 2021 in order to assess the nature of any complaints to the restaurant. These call for services are from before the State of California and City of Pasadena's "Safer at Home" order in March 2020, which required the restaurant to be temporarily closed to the public, and afterwards.

These records show that from January 1, 2018 to September 22, 2021, there have been 132 calls for service to the restaurant, 105 of which were before the "Safer at Home" order in March 2020, and 27 afterwards. Of the 105 before the temporary closure, 83 were for music disturbances and 80 of these were for music disturbances between the hours of 10:00 p.m. and 2:00 a.m.

Of the 27 calls for service since the temporary closure in March 2020, when the restaurant was allowed limited hours of operation in line with the "Safer at Home" orders, 14 were for music disturbances between the hours of 10:00 p.m. and 2:00 a.m. Due to number of calls for service for music disturbances, the Police Department has submitted written comments stating that the requested modifications would cause a strain on police services, that are already extended with the current conditions of approval, and would lower the quality of life for nearby residents.

In addition, since Eden Garden Bar and Grill opened in 2008/2009, the Code Compliance Division has opened nine Code Compliance Cases for the restaurant centered on noise complaints after hours, unpermitted amplified music, live entertainment and consumption of hookah products, which are not allowed within the City of Pasadena.

In response to community complaints, both the Code Compliance Division and the Police Department have conducted on-site investigations to verify, and attempt to correct, these infractions. The inspections revealed several violations to the conditions of approval of the CUP. As demonstrated above, City staff has documented several instances where the current conditions of approval were violated and amplified music is played, including beyond the hours permitted for live entertainment. The most recent Code Compliance Cases that were opened in 2018 and 2019 have since been closed for investigation due to the temporary closure of the restaurant due to the "Safer at Home" orders.

It is staff's position that to permit live amplified entertainment beyond the 75 square-foot performance area permitted with a restaurant use would result in impacts that the original conditions were attempting to prevent next to a residential use. Modifying the conditions would allow the restaurant to operate as a nightclub, a use that is not compatible with the existing adjacent residential uses. Combined with the previous code compliance cases pertaining to

amplified music, noise disturbances, and consumption of hookah products; and the frequent number of Police calls for service to the restaurant for noise disturbances, staff is not supportive of modifying the conditions of approval to permit amplified music, either indoors or outdoors, to extend the hours for outdoor entertainment, or to allow for customer dancing.

As shown in this report, staff finds that there are no changed circumstances that are sufficient to warrant allowing for amplified live entertainment indoors and outdoors, extended hours for outdoor entertainment or customer dancing. It is anticipated that allowing Eden Garden Bar and Grill more flexibility in entertainment options would only worsen these community complaints and the level of service provided by the Police Department. As a result, the necessary findings cannot be made to approve the requested additional live entertainment and hours of live entertainment, and therefore staff recommends disapproval of the modification request.

2) Expressive Use Permit

The Expressive Use Permit process was established in order to ensure an orderly and thorough City review of applications for certain uses and to ensure compatibility with the surrounding uses. In this case, an Expressive Use Permit is needed to approve a nightclub land use, which is associated with a performance area greater than 75 feet and customer dancing.

The five findings necessary to approve an Expressive Use Permit focus on the ability of the proposed use to provide and maintain: 1) compliance with the zoning district and all applicable provisions of the Zoning Code; 2) wastewater and sanitary sewer services; 3) solid waste services; 4) fire prevention and suppression services; and 5) police services and crime prevention services.

In this case, the findings regarding the ability of the use to properly handle wastewater, solid waste, and fire prevention services can be made, as all three are subject to review and permitting processes to ensure compliance with the applicable regulations.

However, the finding regarding the use's compliance with the zoning district and all applicable provisions of the Zoning Code cannot be made. Zoning Code Section 17.50.130 (Live Entertainment) requires that no entrance or exit face a residential use. The existing design of the historic building has several doors that face the abutting residential use, as well as an open air patio that opens up to the residential use. While these doors can be conditioned to remain closed, or used for emergency use only, it is the request for amplified entertainment in the open air patio, which is in close proximity to the abutting residential use, that continues to be a concern for staff.

As discussed in the previous section on the modifications to the conditions of approval of the CUP, the Police Department is not in support of the proposed modifications, which include the expanded live entertainment and customer dancing. Their primary concern is the large multi-family residential building abutting the restaurant to the west and north. The frequent noise disturbance calls, without the approved use of amplified live entertainment, are indicative of a potentially problematic nuisance use for the surrounding area. As a result, the finding pertaining to maintaining police services and crime prevention services cannot be made. Therefore, staff is recommending disapproval of the Expressive Use Permit request to establish a nightclub.

ENVIRONMENTAL:

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)(5); Administrative Code, Title 14, Chapter 3, §15270(a), Projects which are Disapproved. This

Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

In the event the Hearing Officer decides to approve the modification to CUP #1813 and the Expressive Use Permit, the project could qualify for an exemption 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; therefore there are no unusual circumstances. Class 1 exempts the operation, permitting, licensing or minor alteration of existing structures where there is negligible or no expansion of the use. The proposed modification of CUP #1813 to permit a nightclub land use, is considered a negligible expansion of a commercial use.

GENERAL PLAN CONSISTENCY:

The requested modifications to the CUP to allow for amplified live entertainment and extended hours for outdoor entertainment and customer dancing for the existing restaurant are not consistent with the purposes of the Central District Specific Plan, nor the General Plan Land Use Element policies contained in Goal 3, Compatible Land Uses, Goal 4, Elements Contributing to Urban Form, and Goal 25, Vital Districts and Corridors.

One of the objectives of the Central District Specific Plan and the CD-2 (Central District Specific Plan, Midtown/Civic Center subdistrict) zoning district is to identify growth areas with the intention of protecting existing residential neighborhoods, while creating an exciting urban core with diverse economic, residential and cultural opportunities. The proposed modifications do not support the intention to protect the existing residential use directly abutting the site.

In addition, General Plan Land Use Element (GPLU) Policy 25.7 (Buffering Adjoining Residential Areas) aims to ensure that commercial uses adjoining residential neighborhoods are designed to be compatible with each other. GPLU Policy 4.11 (Development that is Compatible) requires that developments retain a contextual relationship with neighboring structures addressing such elements as buffering, impacts of noise and lighting, and the arrangement of shared and private open spaces. Lastly, GPLU Policy 3.1 (High-Impact Uses) aims to avoid the concentration of uses and facilities in any neighborhood or district where their intensities, operations, and/or traffic could adversely impact the character, safety, health and quality of life for the surrounding area.

Staff and the Police Department have concerns regarding the modifications to the conditions of approval as well as the addition of amplified live entertainment and customer dancing. The proposed use and its operation is anticipated to have loud amplified music emanating from the open patio and windows facing the adjacent residential development, guests congregating outside and in the surrounding neighborhood until late in the evening and early mornings, and result in noise disturbances from inside and outside the restaurant. As a result, the proposed use with live entertainment, and the hours of live entertainment would not be in line with the purposes and policies of the Specific Plan and the General Land Use Plan.

COMMENTS FROM OTHER DEPARTMENTS:

The proposal was reviewed by the Pasadena Departments of Fire, Police, Public Health, Public Works, Transportation, Water and Power (Water and Power Divisions) and the Building and Design and Historic Preservation Sections of the Planning and Community Development

Department. Of these reviewers, the Police Department submitted written comments in opposition to the proposed request and stated that they were concerned with the noise disturbances to the multi-family residential use to the rear that would result from the approval of the modification requests. The Police Department cited the numerous Police calls for service for noise disturbances with the current conditions of approval and stated that approval would only increase these calls for service and would cause a strain on police services and would lower the quality of life for nearby residents. In the event that the project is approved, the Water Division of the Department of Water and Power provided recommended conditions of approval; no other departments provided comments.

CONCLUSION:

It is staff's assessment that the findings necessary for approving the Modification to CUP #1813 and Expressive Use Permit to allow for amplified live entertainment both indoors and outdoors, to extend the hours for outdoor entertainment and to allow for customer dancing cannot be made. Specifically, staff finds that the use, as proposed by the applicant, would negatively impact the general welfare of the surrounding area. Approval of such a request would be contrary to the intent of the General Plan Land Use Policies 3.1, 4.11 and 25.7 and would not be a compatible land use with the adjacent residential neighborhood. Approval of the proposed requests would create noise and safety concerns for the surrounding residences. As a result, the proposed project would be detrimental to the public health, safety, and general welfare and is not in compliance with the General Plan. Therefore, staff is recommending disapproval of the proposed applications based on the findings in Attachment A.

Attachments:

Attachment A: Specific Findings Disapproval

ATTACHMENT A
SPECIFIC FINDINGS FOR MODIFICATION OF CONDITIONAL USE PERMIT #1813

Modification to Conditional Use Permit #1813

1. *The location of the proposed use does not comply with the special purposes of this Zoning Code and the purposes of the applicable zoning district.* The purpose of the Central District Specific Plan and the CD-2 zoning district is to identify growth areas with the intention of protecting existing residential neighborhoods, while creating an exciting urban core with diverse economic, residential and cultural opportunities. The proposed modifications do not support the intention to protect the existing residential use directly abutting the site. The proposed use will result in noise and safety concerns for the adjoining residential uses and will adversely impact the character, safety, health and quality of life for the surrounding area. In addition, Zoning Code Section 17.50.130 (Live Entertainment) requires that no doors face an abutting residential use. The subject tenant space has several doors and a large open-air patio that faces the abutting four-story residential use to the north, located approximately nine feet away. As a result, the proposed use does not comply with the special purposes of this Zoning Code nor the purposes of the applicable zoning district.

2. *The proposed use is not in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.* The requested modifications to the CUP to allow for amplified live entertainment, extended hours for outdoor entertainment and customer dancing, for an existing restaurant abutting a dense multi-family residential building, are not consistent with the purposes of the Central District Specific Plan and the policies contained in Goal 3, Compatible Land Uses, Goal 4, Elements Contributing to Urban Form, and Goal 25, Vital Districts and Corridors, of the General Plan Land Use Element.

One of the objectives of the Central District Specific Plan and the CD-2 (Central District Specific Plan, Midtown/Civic Center subdistrict) zoning district is identify growth areas with the intention of protecting existing residential neighborhoods, while creating an exciting urban core with diverse economic, residential and cultural opportunities. The proposed modifications do not support the intention to protect the existing residential use directly abutting the site.

In addition, General Plan Land Use Element (GPLU) Policy 25.7 (Buffering Adjoining Residential Areas) aims to ensure that commercial uses adjoining residential neighborhoods are designed to be compatible with each other. GPLU Policy 4.11 (Development that is Compatible) requires that developments retain a contextual relationship with neighboring structures addressing such elements as buffering, impacts of noise and lighting, and the arrangement of shared and private open spaces. Lastly, GPLU Policy 3.1 (High-Impact Uses) aims to avoid the concentration of uses and facilities in any neighborhood or district where their intensities, operations, and/or traffic could adversely impact the character, safety, health and quality of life for the surrounding area.

Staff and the Police Department have concerns regarding the modifications to the conditions of approval as well as the addition of amplified live entertainment and customer dancing. The proposed use and its operation is anticipated to have loud amplified music emanating from the open patio and windows facing the adjacent residential development, guests congregating outside and in the surrounding neighborhood until late in the evening and early mornings, and result in noise disturbances from inside and outside the restaurant. As a result, the proposed use with extended hours for live entertainment operation will not be in line with the purposes

and policies of the Specific Plan and the General Land Use Plan.

3. *The establishment, maintenance, or operation of the use would, 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.* Approval of the proposed project will allow for the operation of a nightclub land use. The site is adjacent to residential uses to the north and west, and noise disturbances will be detrimental to the health, safety and general welfare of persons residing or working in the neighborhood of the proposed use. The open air patio and amplified music, both indoors and outdoors, will result in noise and public safety disturbances. Additionally, as there would be no limit on the number of events per week nor the type of event, it could result in the use having live entertainment seven days a week until 12:00 a.m. or 1:00 a.m. with amplified music, proving to be a continuous noise and public safety nuisance to the surrounding residences. Furthermore, the Police Department submitted written comments in opposition to the proposed request and stated that they were concerned with the noise issues on the multi-family residential use to the rear that would result from the approval of the modification requests. The Police Department cited the numerous Police calls for service for noise disturbances with the current conditions of approval and stated that approval would only increase these calls for service and would cause a strain on police services and would lower the quality of life for nearby residents.
4. *The use, as described and conditionally approved, would be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.* Approval of the proposed project will allow for the operation of a nightclub land use. The site is adjacent to residential uses to the north and west, and noise disturbances will be detrimental to the general welfare of the City. It is anticipated that the open air patio and amplified music, both indoors and outdoors, will result in noise and public safety disturbances. Additionally, as there would be no limit on the number of events per week nor the type of event, it could result in the use having live entertainment seven days a week until 12:00 a.m. or 1:00 a.m. with amplified music, proving to be a continuous noise and public safety nuisance to the surrounding residences. Furthermore, the Police Department submitted written comments in opposition to the proposed request and stated that they were concerned with the noise issues on the multi-family residential use to the rear that would result from the approval of the modification requests. The Police Department cited the numerous Police calls for service for noise disturbances with the current conditions of approval and stated that approval would only increase these calls for service and would cause a strain on police services and would lower the quality of life for nearby residents.
5. *The design, location, operating characteristics, and size of the proposed use would not be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.* The project involves the establishment of a nightclub land use with live entertainment, customer dancing and amplified music indoors and outdoors, within an existing commercial space adjacent to a dense multi-family residential structure. The operational characteristics such as amplified music, frequency of events, hours of operation will not be compatible with existing and future land uses in the vicinity. These operating characteristics, along with event impacts will not be compatible with the character of the existing residential uses.
6. *There are no changed circumstances sufficient to justify the modification of the original approval.* Since Eden Garden Bar and Grill opened in 2008/2009, the Code Compliance Division has opened nine Code Compliance Cases for the restaurant centered on noise complaints after hours, unpermitted amplified music, live entertainment and consumption of

hookah products, which are not allowed within the City of Pasadena. In addition, records from the Pasadena Police Department for Police calls for service related to Eden Garden Bar and Grill, from January 1, 2018 until September 22, 2021, show that there have been 132 calls for service to the restaurant, 105 of which were before the Safer at Home order in March 2020 and 27 afterwards. Of the 105 before the temporary closure, 83 were for music disturbances and 80 of these were for music disturbances between the hours of 10:00 p.m. and 2:00 a.m. Of the 27 calls for service since the temporary closure in March 2020, when the restaurant was allowed limited hours of operation in line with the State of California and the City of Pasadena's "Safer at Home" orders, 14 were for music disturbances between the hours of 10:00 p.m. and 2:00 a.m. In addition, due to number of calls for service for music disturbances, the Police Department has submitted written comments stating that "if the CUP is modified/approved, it will cause a strain on police services and lower the quality of life for nearby residents."

In response to community complaints, both the Code Compliance Division and the Police Department have conducted on-site investigations to verify, and attempt to correct, these infractions. The inspections revealed several violations to the conditions of approval of the CUP. As demonstrated above, City staff has documented several instances where conditions of approval were violated and amplified music is played, including beyond the time period permitted for live entertainment. As a result, staff finds that there are no changed circumstances that are sufficient to warrant allowing for amplified live entertainment indoors and outdoors, extended hours for outdoor entertainment or customer dancing. It is anticipated that allowing Eden Garden Bar and Grill more flexibility in entertainment options would only worsen these community complaints and the level of service provided by the Police Department.

Expressive Use Permit: To establish a nightclub land use

7. *The proposed use is allowed with an Expressive Use Permit within the subject zoning district but does not comply with the applicable development and design requirements of the subject zoning district and with all applicable provisions of the City's Zoning Code.* The subject site is located within the CD-2 zoning district where, pursuant to Zoning Code Section 17.30.030, Table 3-1 (Allowed Uses and Permit Requirements for Central District Zoning Districts), a nightclub land use is permitted with an Expressive Use Permit. However, the purpose of the Central District Specific Plan and the CD-2 zoning district is to identify growth areas with the intention of protecting existing residential neighborhoods, while creating an exciting urban core with diverse economic, residential and cultural opportunities. The proposed request for a nightclub land use does not support the intention to protect the existing residential use directly abutting the site. The proposed use will result in noise and safety concerns for the adjoining residential uses and will adversely impact the character, safety, health and quality of life for the surrounding area. In addition, Zoning Code Section 17.50.130 (Live Entertainment) requires that no doors face an abutting residential use. The subject tenant space has several doors and a large open-air patio that faces the abutting four-story residential use to the north, located approximately nine feet away. As a result, the proposed use does not comply with the development and design requirements of the zoning district nor all the provisions of the Zoning Code.
8. *The proposed use will not provide and maintain police services and crime prevention services to establish and maintain minimum response time for police calls for service as established by the City's General Plan.* The subject restaurant has a long history of calls for service with the Police Department for music disturbances between the hours of 10:00 p.m. and 2:00 a.m.

and has had several Code Compliance cases opened due to noise complaints after hours, unpermitted amplified music and consumption of hookah products. In response to these community complaints, both the Code Compliance Division and the Police Department have conducted on-site investigations to verify, and attempt to correct, these infractions. The inspections revealed several violations to the conditions of approval of the Conditional Use Permit. Furthermore, as stated by the Pasadena Police Department, “the police department does not agree with the requested modifications. The concern is the noise issues this will cause to the multiplex residences located to the rear. We have received numerous calls for loud music within the last year and this will increase calls for service. If the CUP is modified/approved it will also cause a strain on police services and lower the quality of life for nearby residents.” As a result, the proposed use will stress the existing police and crime prevention services beyond what is established in the General Plan.