

July 11, 2007

Central Area Planning Commission
200 N. Spring Street
Room 532
Los Angeles, CA 90012

Re: Case No. ZA 2006-10405(ZV)

Dear Sir or Madame:

On behalf of the membership of the Los Feliz Improvement Association, I am submitting an appeal to Case No. ZA 2006-10405(ZV) regarding the approval of a request to permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption during catered events at the Griffith Observatory, in the Observatory Café, and Special Event Catering elsewhere on the site.

Per the questions required for the appeal: (1) how are we aggrieved by the decision; and (2) why do we believe the decision-maker erred or abused their discretion, following are our comments:

1. The Zoning Administrator failed to appropriately weigh the immense opposition and input from numerous community associations and neighborhood councils. In his decision, the Zoning Administrator did not show how he considered the testimony made by affected neighbors, community associations and neighborhood councils, although such testimony explained how the approval of the variance would negatively affect neighborhood safety and quality of life.

In his June 29, 2007 decision, the Zoning Administrator included nineteen pages of "Letters and Email in Opposition to the Project Submitted by Groups or Organizations" and three additional pages of "Letters and Email in Opposition to the Project Submitted by Individuals." The Zoning Administrator himself admits that "because of the extensive amount of correspondence received regarding this case, the Zoning Administrator has opted to quote only a few of the many letters of opposition he received from individuals. The selection was a subjective decision on the part of the Zoning Administrator to select documents he believed best represented the bulk of the writers. All letters can be found in the file." There was only one letter included in the decision written in support of the application; the Zoning Administrator did not indicate if there were other letters of support in the file.

In addition to the letters and emails, the Zoning Administrator cites verbal comments in opposition to the variance made at the March 13, 2007 public hearing. Sixteen speakers opposed the variance while only three supported the variance.

At the end of public comment at the March 13, 2007 public hearing, Councilmember Tom LaBonge suggested that the Zoning Administrator's decision be tabled until May 30, 2007 to give time for additional public comment. He asked that the Department of Recreation and Parks meet with community associations and neighborhood council to craft suitable guidelines. The Zoning Administrator agreed and announced that he would continue to take public comment until May 30, 2007.

The Zoning Administrator failed to weigh the immense public opposition to this variance. The Zoning Administrator erred by not explaining how the intense public opposition affected his decision and how he took neighborhood concerns of safety and quality of life into consideration when approving the Applicant's request.

2. The Zoning Administrator contradicted his own statement made at the March 13, 2007 public hearing that he would make his ruling using Department of Recreation & Parks guidelines governing special events at which alcohol would be served at the Observatory.

At the March 13, 2007 public hearing, the Zoning Administrator began the proceedings by laying out his concerns, asking the Applicant (Wolfgang Puck Catering and Events, LLC) and the Owner (Department of Recreation and Parks, or RAP) to respond. His concerns (referred to hereafter as guidelines) included (a) hours of operation, (b) noise impact, (c) security for events, (d) parking, (e) number of events, (f) description of events, (g) use of the existing café, (h) other uses, and, (i) number of special events and hours. Neither the Applicant nor the Owner could provide satisfactory answers to the Zoning Administrator regarding guidelines.

Throughout the hearing, the Zoning Administrator repeatedly asked the Owner for the afore-mentioned guidelines. RAP variously responded that they were putting

together the guidelines, and they would be ready in two months. In reference to a question about public input on the guidelines, RAP said the guidelines could be posted on their website when they were ready to be presented to the Commission for approval. The Applicant volunteered that the conditions could further be included in the Zoning Administrator's decision and RAP seconded that suggestion.

After a long period of public comment in opposition to the variance, Councilmember Tom LaBonge spoke and suggested that the issue be tabled and the record be kept open until May 30, 2007. The extension of time would allow for (1) individuals and community groups to give additional comment to the Zoning Administrator, and, (2) allow the City and the Department of Recreation and Parks to meet with the community to create guidelines for special events at the Observatory where alcohol is served. While the community meetings did take place, a set of guidelines acceptable to the public was never adopted by RAP. However, per their testimony at the June 20, 2007 Board of Commissioners hearing, RAP said that they based their guidelines for Commission approval on many conditions and compromises important to the community.

RAP did not submit their guidelines to the RAP Board of Commissioners for approval until June 20, 2007. These guidelines were not made public until 4:30 PM on June 19, the day before the Commissioners' meeting—leaving no time for final public comment or approval. The Board of Commissioners approved the guidelines submitted by RAP on June 20, 2007. Nowhere in his June 29, 2007 decision does the Zoning Administrator reference these approved guidelines.

Several of the conditions in the June 29, 2007 decision disagree with the guidelines approved by the RAP Commission on June 20, 2007. They include:

a. In the June 29 decision, the Zoning Administrator states (page 2, item 7-d) that events at the Observatory may include "Observatory-sponsored events and events sponsored by city agencies and departments, non-profit group events, charity events, corporate meetings and events, political fund raisers. Private groups may be included upon the express written authorization of the Department of Recreation and Parks."

The Commission-approved events are limited to those with "relevance to the Observatory Mission. Integral to the purpose of the event and the use of the Observatory are goals of civic responsibility; promotion of science and astronomy; collaboration on issues in which the Observatory has a functional relationship, such as education and scientific research; or celebration of Griffith Park, its donor, or the facility itself, or Donor recognition." (Attachment A – Observatory Rates & Fees, page 9).

The June 29 decision allows a much more liberal criterion for use of the Observatory as a location for special catered events. This condition is opposed by neighbors, community associations and neighborhood council.

b. In the June 29 decision, the Zoning Administrator proposed that the hours for the service of alcohol to be 11 AM to 11 PM (page 3, #11). The Commission-approved version states that “alcohol services, if applicable, must conclude by 10:00 PM and events at which alcohol is served should conclude no later than 10:30 PM. Exceptions to the 10:00 PM cut off of alcohol service or 10:30 PM event conclusion may be granted only by the approval of the Department of Recreation and Parks General Manager.” (Attachment A – Observatory Rates & Fees, page 9)

The 11:00 PM limit is one hour past the Observatory closing time, and is opposed by neighbors, community associations and neighborhood council.

c. In the June 29 decision, the Zoning Administrator has a provision for “an additional six privately-sponsored special catered events lasting past midnight but not past 1 AM” (page 3, #12). This is well beyond the 10:00 PM conclusion for alcohol service and the 10:30 PM event conclusion time approved by the Commission. (Attachment A – Observatory Rates & Fees, page 9)

The June 29 decision adds six additional events that have a permissible ending time that is up to three hours past the normal closing time of the Observatory. Neighbors, community groups and neighborhood council strongly oppose events that conclude past the normal Observatory closing time.

The Zoning Administrator erred by not waiting for the RAP Board of Commissioners approved guidelines to become available before making his decision. Based on his statements at the March 13, 2007 hearing, the public understood that the approved guidelines would play a role in his decision-making process.

3. The Zoning Administrator cites two related actions in the making of his decision, neither of which had the benefit of a public hearing. It is not a fair comparison to cite these actions that were decided without public comment.

(a) Case No. ZA 90-0903(ZV). Approval of a request by the Western Heritage Museum (Autry Museum) for the dispensation of alcoholic beverages for on-site consumption for a Type 47 license with 152 individuals and hours of operation from 9 AM to 5 PM daily, plus special events and accessory catering.

(b) Case No. ZA 98-0012(ZV). Approval of a request for the sale, dispensation and on-site consumption of alcoholic beverages in the Los Angeles Zoo.

For reasons unknown, both of these decisions were made without a public hearing or public comment. It is also not known how public opinion may have swayed either of these actions had the public been given the opportunity to offer their input.

In addition, neither the Western Heritage Museum (Autry Museum) or the Los Angeles Zoo are in proximity to a residential neighborhood, thus no residents are negatively impacted.

The Zoning Administrator erred by referencing these two actions because neither decision was made with the benefit of a public hearing. The public had no official opportunity to support or reject the above-referenced actions.

4. Mandated Findings

The Zoning Administrator's determination to grant a liquor variance to Wolfgang Puck fails to meet a single one of the five criteria for granting such a variance:

a. The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.

The Observatory is over 70 years old. The absence of alcohol has not proved to be a practical difficulty or an unnecessary hardship in the operation of the Observatory during these more than seven decades. The absence of alcohol will in no way impair the scientific and educational functions for which the Observatory was built. Alcohol was not an integral part of the Observatory's function on its opening in 1935 and is not now.

Puck asserts that the absence of alcohol will deprive RAP "from enjoying the reasonable use of the Observatory as a public space utilized for special events approved by RAP." There is, however, no showing that the inability to use the Observatory as desired results in a practical difficulty or unnecessary hardship any more than the practical difficulty or unnecessary hardship facing an owner of a parcel zoned R1 who wants to build a hotel.

Prior to the renovation of the Observatory RAP proposed the construction of a "destination restaurant" at the Observatory. This was widely and vociferously decried. As a result such a restaurant was not included in the renovation. The zone variance if allowed without the strict guidelines will be viewed by the community as a breach of the tacit agreement between the City and the community that there will be no destination restaurant by substituting a "destination entertainment venue" for a "destination restaurant." The concession agreement between RAP and Puck provides that Puck is to implement a marketing program targeting "local, regional, national, and global event customer[s] where focus is comprised [of] . . . establishing the Observatory as a corporate and convention destination by targeting meeting planners, destination management companies, event producers, and other event decision-makers." (Section 13.J) However, the practical precondition to converting the Observatory into a destination entertainment venue is the sale of liquor. The variance must be denied (or strictly limited) to avoid perverting the purpose of the Observatory and to preserve the

agreement with the community that the Observatory will not be a destination for non-scientific, non-educational purposes.

The purpose of the Open Space Zone is “to implement the City’s adopted General Plan . . . to protect and preserve natural resources and natural features of the environment; to provide outdoor recreation opportunities and advance the public health and welfare; to enhance environmental quality; to encourage the management of public lands in a manner which protects environmental characteristics; and to encourage the maintenance of open space uses on all publicly owned park and recreation land, and open space public land which is essentially unimproved.” (LAMC sec. 12.04.05.)

Operating the Observatory free of alcohol should present no practical difficulty as one’s ability to grasp the educational exhibits or even to enjoy the view are not diminished by sobriety.

Nor should it be an unnecessary hardship for the RAP to continue to refrain from serving alcohol: the Observatory’s mission is to educate not to lubricate.

b. There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.

The application simply fails to show any special circumstances relating to the Observatory that do not apply to other property zoned Open Space. Rather, the application describes the Observatory’s location. The purpose of this requirement is to show how a specific parcel is unfairly disadvantaged by its topography etc. in relationship to similarly zoned property in the vicinity. A comparison is required to other Open Space Zoned parcels. None has been given.

The remote location and steep topography don’t go hand n hand with alcoholic beverages.

c. The variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by the property in the same zone and vicinity but which because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.

As indicated in paragraph 4.a there is neither special circumstance nor unnecessary hardship presented here.

Moreover, it does not seem that RAP has a substantial property right to sell alcohol in Griffith Park. The park was given to the City for park purposes, and those do not ordinarily include the sale or serving of alcohol. The substantial property right that the City has in this property is to operate a park and those things normally incidental thereto. No one can rationally argue that the sale of alcohol is one of those incidental

activities. However, if it were, the property owner represented by RAP has not been deprived of such right. The Observatory is part and parcel of Griffith Park, and as indicated in the application alcohol beverages are sold at several locations in the park. (A review of easily available information from the Planning Department indicates that only two of those locations have obtained a variance to allow the sale of alcohol, and these are the only two cited in the decision. It is very relevant that neither of those two variances was issued after a public hearing. We believe that if hearings had been held the variances would have been opposed. Because of the absence of public hearings those variances ought not to be considered as precedent for expanding the serving of alcohol to the Observatory.)

d. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvement in the same zone or vicinity in which the property is located.

This is the core of the problem of the variance.

(i) The variance would be detrimental to the public welfare.

The serving of alcohol in the fashion Puck requests will be detrimental to the public at large because it allows private catered events serving alcohol at the Observatory without any practical limits on time, place, frequency or relationship to the Observatory's mission. (The proposed limits of up to 1 a.m. and as allowed from time by time by RAP are not really limitations: 1 a.m. is one hour before the legal cut off for the sale of alcohol and RAP is a financially interested party.)

The function of the Observatory is to educate the public and especially children about the fascinating world of astronomy. To convert the Observatory into a backdrop for private parties is inimical to that function and might well be a breach of the implicit agreement with the chief donor, Col. Griffith.

Griffith Park and the Observatory are to be free and open to all; to allow the closing off of any portion of this public facility for private purposes is clearly detrimental to the public good and should be prevented by denying the zoning variance request unless it is expressly limited to times (and places) when the Observatory is regularly closed to the public.

(ii) The variance would be injurious to the property in the vicinity.

The only means of access to the Observatory are Vermont and Western Canyon Road. Homes line these streets south of Griffith Park. The peace and tranquility of the people living in those homes and the value of such homes are directly affected by the amount of traffic, the time of traffic and the nature of traffic on those streets. The unrestricted serving of alcohol at catered events at the Observatory will clearly affect the residents and reduce the values of their homes.

e. The granting of the variance will adversely affect any element of the General Plan.

One of the principal goals of the General Plan, found in the Open Space Element, page 7, is “to conserve unique natural features, scenic areas, cultural and appropriate historical monuments for the benefit and enjoyment of the public.”

The Observatory is City of Los Angeles Historic-Cultural Monument No. 168 and is located in an Open Space Zone. The express goal of the General Plan is to preserve the enjoyment of such a monument by the public. The variance request proposes closure of the monument to the public whenever Puck and RAP would prefer to have a private party.

In conclusion, we believe Puck has failed to show that any one, much less all, of the preconditions for a variance exists.

On behalf of the membership of the Los Feliz Improvement Association, I respectfully ask that the Board of Appeals reverse the June 29, 2007 approval of a request for the sale and dispensing of a full line of alcoholic beverages for on-site consumption during catered events at the Griffith Observatory, in the Observatory Café, and Special Events Catering elsewhere on the site.

Sincerely,

Marian Dodge
President

- Attachments:
1. Case No. ZA 2006-10405(ZV) June 29, 2007 decision
 2. Report of the General Manager. Department of Recreation and Parks. Griffith Observatory – Amendment to the Schedule of Rates & Fees
 3. “Booze Served at the Observatory?” Spring 2007 *Los Feliz Observer* President’s column on liquor variance at the Griffith Observatory.

