



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: September 18, 2019

TO: Hearing Officer

SUBJECT: Conditional Use Permit #6754

LOCATION: 20 E. Union Street #160

APPLICANT: Stanley Szeto on behalf of Dirt Dog, Inc.

ZONING DESIGNATION: CD-1 AD-1 (Central District Specific Plan, Old Pasadena subdistrict, Alcohol Overlay 1)

GENERAL PLAN DESIGNATION: Medium Mixed Use

CASE PLANNER: Abdu Lachgar

STAFF RECOMMENDATION: Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Conditional Use Permit #6754 with the conditions in Attachment B

PROJECT PROPOSAL: Conditional Use Permit: To allow the on-site sale of limited alcohol (beer and wine) in conjunction with the operation of a proposed fast food restaurant (Dirt Dog).

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 sale of alcohol in conjunction with the operation of a restaurant is a negligible expansion of use.

BACKGROUND:

Site characteristics: The subject property is located on the southeast corner of Fair Oaks Avenue and Union Street. The 45,500 square-foot site is developed with a multi-level parking structure along with ground floor commercial units. The restaurant (Dirt Dog) occupies a ground floor space measuring 1,263 square feet.

Adjacent Uses: North: Commercial
South: Commercial
East: Commercial/Mixed-Use
West: Commercial

Adjacent Zoning: North: CD-1, AD-1 (Central District Specific Plan, Old Pasadena, Alcohol Density Overlay District 1)
South: CD-1, AD-1 (Central District Specific Plan, Old Pasadena, Alcohol Density Overlay District 1)
East: CD-1, AD-1 (Central District Specific Plan, Old Pasadena, Alcohol Density Overlay District 1)
West: CD-1, AD-1 (Central District Specific Plan, Old Pasadena, Alcohol Density Overlay District 1)

Previous Cases: None

PROJECT DESCRIPTION:

The applicant, Stanley Szeto, has submitted a Conditional Use Permit application to allow the on-site sale of alcohol (beer and wine) in conjunction with the operation of a restaurant (Dirt Dog). The existing restaurant space is 1,263 square feet, including a dining room, kitchen facilities, restroom, and refrigeration and storage areas. No outdoor dining is proposed. No dedicated bar area for preparing and serving alcohol is proposed. The proposed hours of operation would be 11:00 a.m. to 10:00 p.m., daily. The California Department of Alcoholic Beverage Control (ABC) license requested is a Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place). This ABC license type authorizes the sale of beer and wine for consumption on the premises where sold. It requires the operator to maintain the licensed premise as a bona fide eating establishment, maintain suitable kitchen facilities, and make actual and substantial sales of meals for consumption on the premises.

ANALYSIS:

The subject property is located in the CD-1, AD-1 (Central District Specific Plan, Old Pasadena, Alcohol Density Overlay District 1) zoning district. One of the purposes of the CD-1, AD-1 zoning district is to maintain and reinforce the historic character of the area, and to support its long-term viability as a regional retail and entertainment attraction through the development of complementary uses, including medium to high-density housing near light rail stations. The Zoning Code currently allows fast food restaurant uses by-right within the district. The proposed accessory sale of alcohol for on-site consumption is subject to the approval of a Conditional Use Permit pursuant to Table 3-1 of Zoning Code Section 17.30.030 (Central District Land Uses and Permit Requirements).

The Conditional Use Permit process allows the City to review a project to determine its compatibility with the surrounding area. This review may result in recommended conditions or requirements associated with the operation of the use, specifically the on-site sale of alcohol (beer and wine). The Hearing Officer may approve a Conditional Use Permit for the accessory sale of alcohol only after making five findings identified in the Zoning Code. The general purpose of the findings is to evaluate compliance with the Zoning Code and General Plan, whether the use would be detrimental or injurious to the neighborhood, and compatibility of the operation with existing and future uses. In this case, the analysis focused on whether the request to allow the sale and consumption of alcohol would create a negative impact on the general welfare of the surrounding property owners or result in an aggravation of existing alcohol-related problems such as loitering, public drunkenness, sales to minors, or noise.

According to the applicant, the sale and consumption of alcohol would be ancillary to the service of food and the principal restaurant use. Alcohol sales are intended to be paired with food consumption. No bar area is proposed. A restaurant use may include accessory live entertainment where the performance area does not exceed 75 square feet and customer dancing is not provided. If the performance area exceeds 75 square feet or customer dancing is provided, the use shall be classified as a nightclub (Commercial Entertainment). At the time of this application, the applicant is not proposing any live entertainment in conjunction with the restaurant use. Furthermore, the sale of alcohol in disposable containers is prohibited. Cover charges, age restrictions, and amplified music conducive of a night club atmosphere are also prohibited so that this establishment remains a bona-fide restaurant, and does not deviate from its approved use. The on-site sale and consumption of beer and wine, in conjunction with the operation of an existing restaurant, would be consistent with the surrounding uses within the Central District, Old Pasadena subdistrict and would promote the vitality of the restaurant. The introduction of on-site sale of beer and wine is not viewed as being in conflict with the surrounding commercial uses. Alcohol sale and consumption would occur on-site and in conjunction with food sales only. The conditions of approval would ensure the use remains a bona fide restaurant.

Parking

The required off-street parking for a fast food restaurant use up to and including 1,500 square feet in gross floor area is 4 spaces per 1,000 square feet of gross floor area, including any outdoor dining area not located in the public right-of-way. Because the subject site is located within the CD-1 Old Pasadena Historic Core Precinct, the required number of parking spaces for the nonresidential uses is reduced by up to 25 percent. Based on this requirement, the number of required parking spaces for the use is four.

Parking for the fast food restaurant is provided by an attached parking structure. The parking structure has a total of 778 spaces. The parking spaces in the parking structure are utilized by ground floor tenants of the structure (e.g. Dirt Dog) and tenants that are part of the One Colorado shopping center, located west of the project site, across Fair Oaks Avenue. The parking requirement by the current mix of tenants, including the subject fast food restaurant, is 713 parking spaces. Therefore, there is adequate parking for the proposed fast food restaurant.

Hours of Operation

Section 17.40.070.A.4 of the Zoning Code states that uses within the Central District are exempt from limitations on the hours of operation, except for loading, unloading, and trash-pick up limitations. The subject site is within the Central District and the proposed hours of operation from 11:00 a.m. to 10:00 p.m., seven days a week.

Concentration of Alcohol Sales

The project site is located within Census Tract #4619.02. According to the State Department of Alcoholic Beverage Control (ABC), a maximum of one alcohol license for on-site consumption is allowed in the census tract as a function of the population in the Census Tract. Currently there are 57 on-site licenses within the census tract. The applicant is proposing to add another license to an existing area that has an “undue concentration” of alcohol licenses, as defined by ABC. As such, ABC requires the applicant to make findings of public convenience and necessity in order to obtain the alcohol license from ABC. Further, if a project is for a public premises, such as a bar or lounge, or for off-site sale of alcohol, ABC requires the findings be made by the governing body. Because this alcohol license application is for a restaurant and not for a bar or off-site sale of alcohol, these findings are not required to be made by the City.

A Conditional Use Permit application for alcohol sales requires the applicant to identify all uses that sell alcohol for either on-site or off-site consumption within 250 feet of the site for a project within the CD-1, AD-1 zoning district. Based on the information provided by the applicant, there are currently 28 establishments that sell alcohol within 250 feet of the subject site, as shown in Table 1 below:

Site	Business Name	Address	License Type
1	Bar Celona	38 E. Colorado Blvd.	Type 47 On-site Full Alcohol
2	Bone Kettle	67 N. Raymond Ave.	Type 41 On-site Beer & Wine
3	California Chutney	N. Raymond Ave.	Type 41 On-site Beer & Wine
4	Club 54	54 E. Colorado Blvd.	Type 48 On-site Full Alcohol
5	Der Wolfskopf	72 N. Fair Oaks Ave.	Type 47 On-site Full Alcohol
6	Fish on Tap	43 E. Colorado Blvd.	Type 41 On-site Beer & Wine
7	Freddie’s 35er Bar	12 E. Colorado Blvd.	Type 48 On-site Full Alcohol
8	Grandview Palace	N. Raymond Ave.	Type 41 On-site Beer & Wine
9	Harlowe’s French Dip	43 E. Union St.	Type 41 On-site Beer & Wine
10	Il Fornaio	24 W. Union St.	Type 47 On-site Full Alcohol
11	Meat District Co.	N. Raymond Ave.	Type 41 On-site Beer & Wine
12	Mipiace	25 E. Colorado Blvd. # 205	Type 47 On-site Full Alcohol
13	NY Deli	N. Raymond Ave.	Type 41 On-site Beer & Wine
14	Osawa Shabu Shabu & Sushi	N. Raymond Ave.	Type 41 On-site Beer & Wine
15	Pop Champagne Bar & Restaurant	33 E. Union St.	Type 47 On-site Full Alcohol
16	Russell’s	30 N. Fair Oaks Ave.	Type 41 On-site Beer & Wine
17	Sage Vegan Bistro	41 Hugus Aly	Type 47 On-site Full Alcohol
18	Saigon Noodle Restaurant	28 N. Raymond Ave.	Type 41 On-site Beer & Wine
19	Slater’s 50/50	61 N. Raymond Ave.	Type 47 On-site Full Alcohol
20	Soh Grill House	27 N. Raymond Ave.	Type 41 On-site Beer & Wine
21	Sorriso	46 E. Colorado Blvd.	Type 47 On-site Full Alcohol
22	Sushi Roku	33 Miller Alley	Type 47 On-site Full Alcohol
23	Sushistop	58 E. Colorado Blvd.	Type 41 On-site Beer & Wine
24	The Cheesecake Factory	2 W. Colorado Blvd.	Type 47 On-site Full Alcohol
25	Umami Burger	49 E. Colorado Blvd.	Type 47 On-site Full Alcohol

Site	Business Name	Address	License Type
26	Union Bar	37 E. Union St.	Type 41 On-site Beer & Wine
27	Vertical Wine Bistro	70 N. Raymond Ave.	Type 47 & 48 On-site Full Alcohol
28	We Olive & Wine Bar	32 E. Colorado Blvd.	Type 41 On-site Beer & Wine

Table 1: Alcohol License Types for Existing Businesses within 250 feet

Proximity to Sensitive Uses

The sale of alcohol shall be designed and operated to avoid any significant adverse impact on adjacent or nearby parks (e.g., public parks or recreation centers), playgrounds (e.g., public or parochial), religious facilities, or schools (e.g., public, parochial, or private elementary, junior high, or high schools). The subject property is located on East Union Street and is surrounded by various commercial, retail, and restaurant uses.

The subject property generally maintains a sufficient distance from sensitive uses, such as park and recreation facilities, places of public assembly, public or private schools, residential uses, or religious facilities. The nearest park, Pasadena Memorial Park, is 475 feet away. There are no schools, religious facilities, or residential uses within 500 feet of the subject property.

As proposed, the on-site sale and consumption of limited alcohol would be ancillary to the dining. There would be no outdoor dining area for the restaurant, thus all the activities and associated noises would be contained indoors. In addition, there would not be any sale of alcoholic beverages for off-site consumption or live entertainment is proposed with the operation of the restaurant. After giving consideration to the location and nature of the proposed use with respect to sensitive uses in the general area, it is staff’s assessment that the sale of limited alcoholic beverages in conjunction with the fast food restaurant will not detrimentally affect the surrounding area.

GENERAL PLAN CONSISTENCY:

As conditioned, the proposed use is consistent with General Plan Land Use Element Policy 12.1, Vital Commercial Districts. The on-site sale and consumption of limited alcohol in conjunction with the operation of a fast food restaurant, along with the implementation of the conditions of approval, would enhance the existing commercial district by creating a quality dining experience. 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.

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 sale of alcohol in conjunction with the operation of a restaurant is a negligible expansion of use.

REVIEW BY OTHER CITY DEPARTMENTS:

The Building and Safety Division and Design and Historic Preservation Section along with the Departments of Transportation, Fire, Public Works, Public Health, and Police reviewed the proposal. All departments did not have any comments at this time and would review the use during the building permit plan check process.

CONCLUSION:

Staff believes that all findings for approval of the Conditional Use Permit can be made. The site is located in a non-residential zoning district that encourages a diverse mix of land uses and services. The proposed sale of alcohol for on-site consumption would be complimentary to the surrounding area and to other existing restaurants in the vicinity. The establishment would provide a full menu during hours of operation with the sale of alcohol incidental to food sales. 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: Specific Findings of Approval

Attachment B: Conditions of Approval

ATTACHMENT A
SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #6754

Conditional Use Permit – To allow the on-site sale and consumption of alcohol (beer and wine) in conjunction with the operation of a restaurant.

1. *The proposed location of the site for the Conditional Use Permit would not adversely affect the general welfare of the surrounding property owners.* The on-site sale of alcohol will occur in conjunction with an approved restaurant use on East Union Street. Nearby uses include restaurant, retail, and personal services. The proposed use complements and provides an amenity for the adjacent uses, maintaining a mix of uses in the area. Alcohol sales associated with the use would occur as an accessory to the restaurant establishment. The proposed use will operate in accordance with City laws, ordinances, and conditions of approval that ensure the continuity of the compatible coexistence of this use with uses in the surrounding area.
2. *The proposed location of the site for the Conditional Use Permit would not result in an undesirable concentration of premises for the sale of alcoholic beverages, including beer and wine, in the area.* Although the ABC considers there to be an overconcentration of licenses in the census tract, the proposal will add an amenity to the area. Most of the existing, on-site alcohol-serving establishments nearby are restaurants and not bars. Unlike traditional nightclubs or bars, restaurants typically serve alcohol with food and have shorter hours of operation, decreasing significant negative effects on the surrounding area. To ensure the proposed establishment remains a bona fide restaurant, the Conditional Use Permit prohibits cover charges, age restrictions, and amplified music conducive of a nightclub atmosphere. The proposal does not include a bar area or a request for live entertainment, further reducing any potential for significant negative impacts associated with alcohol sales.
3. *The proposed location of the site for the Conditional Use Permit would not detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with respect to the following: a. Residential uses and residential districts; b. Hospitals, park and recreation facilities, places of public assembly, public or private schools, and religious assembly uses that attract minors and other similar uses; and c. Other establishments offering alcoholic beverages (including beer and wine) for sale for consumption both on-site.* The subject property generally maintains a sufficient distance from sensitive uses that have the potential to attract minors, such as park and recreation facilities, places of public assembly, public or private schools, hospitals, or religious facilities. The nearest park, Pasadena Memorial Park, is 475 feet away. There are no schools, religious facilities, or residential uses within 500 feet of the subject property. After giving consideration to the location and nature of the proposed use with respect to sensitive uses in the general area, it is staff's assessment that the sale of limited alcoholic beverages in conjunction with the fast food restaurant will not detrimentally affect the surrounding area.
4. *The proposed location of the site for the Conditional Use Permit would not aggravate proposed problems created by the sale of alcohol (e.g., littering, loitering, noise, public drunkenness, and sales to minors).* The incidental sale of alcohol in conjunction with a bona fide restaurant is generally not a problematic use. The Police Department reviewed the proposal and did not express any concerns. With this approval, the project is subject to the City's Condition/Mitigation Monitoring Program. Non-compliance 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. These measures will limit any potential aggravation of existing or proposed problems created by the sale of alcohol.

5. *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. The on-site sale and consumption of limited alcohol in conjunction with the operation of a fast food restaurant, along with the implementation of the conditions of approval, would enhance the existing commercial district by creating a quality dining experience. 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.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #6754

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

1. The proposed project shall substantially conform to the site plan submitted with this application and dated "Approved at Hearing September 18, 2019", except as modified herein.
2. In accordance with Section 17.64.040 of the Pasadena Municipal Code, the exercise of the right granted under this application must be commenced within three years of the effective date of approval. The Hearing Officer can grant a one-year extension of this approval in compliance with Section 17.64.040.C of the Zoning Code. Such a request and the appropriate fee must be received prior to the expiration date.
3. The approval of this application authorizes the accessory on-site sale and consumption of alcohol (beer and wine) in conjunction with the operation of a restaurant, as depicted in he plans submitted with this application and dated "Approved at Hearing September 18, 2019".
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 **PLN2019-00293**, 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. In addition, the project requires Condition Mitigation Monitoring. Contact the Planning Case Manager, Abdu Lachgar at (626) 744-7124 to schedule an inspection appointment time.

Planning Division

9. The primary use shall be a bona fide fast food restaurant with ancillary alcohol sales (beer and wine) for on-site consumption. The sale of alcoholic beverages shall be in conjunction with food sales. Food service along with a full menu shall be made available during all hours of business operation.
10. The premises shall operate under ABC License Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) and be maintained as a bona fide eating establishment. The premises shall not obtain any other public premises type licenses without the approval of a Conditional Use Permit and/or Expressive Use Permit.

11. The last alcoholic beverage shall be served no later than one-half hour before closing or 1:30 a.m., whichever is earlier
12. The provision of a bar or counter used for preparing and serving alcoholic beverages within the establishment shall require a modification to this Conditional Use Permit or a new Conditional Use Permit.
13. Any live entertainment shall be limited to 75 square feet of floor area. Dancing by customers shall be prohibited at all times.
14. Alcoholic beverages shall not be served in disposable containers.
15. No cover charges, entry fees, or minimum drink orders shall be required of patrons. There shall be no restrictions on the age of customers.
16. Promoter-produced parties or events shall be prohibited. These events include private parties that involve third parties who profit from organizing and/or drawing attendees to the events.
17. Customized lighting and sound system conducive to a nightclub atmosphere shall be prohibited at all times.
18. Amplification of music shall comply with the regulations of Chapter 9.36 (Noise Restrictions) of the Pasadena Municipal Code.
19. Signs advertising brands and types of alcoholic beverages or the availability of alcohol for sale at the subject site shall not be visible from the exterior of the premises.
20. The following preventive measures shall be undertaken to reduce the potential for alcohol related problems:
 - a. Food service shall remain available during all hours of operation;
 - b. Rideshare service phone numbers shall be posted in a conspicuous location at all times in the area(s) where alcohol is served to customers;
 - c. All employees selling or serving alcohol shall be required to participate in an alcohol training program offered by the Alcoholic Beverages Control prior to the operation of selling/serving alcohol;
 - d. The availability of a variety of non-alcoholic beverages shall be made known and offered to customers, and
 - e. No more than four video games shall be permitted.
21. These conditions of approval must be posted in a conspicuous location for public viewing within the restaurant on a continuous basis for the life of this Conditional Use Permit beginning on the date the alcohol sales commence.
22. The site and surrounding area shall be maintained in a litter and graffiti free manner. Any graffiti that should appear on the site shall be removed within 48 hours.

23. Compliance with the City of Pasadena Refuse Storage regulations, see Section 17.40.120 (Refuse Storage Facilities) of the Pasadena Municipal Code, shall be maintained at all times.
24. The establishment shall allow patrons of all ages at all times.
25. The dollar sales of alcoholic beverages shall not exceed the dollar amount of food and non-alcoholic beverages in a quarterly basis to ensure the primary use of the premises as a restaurant. The sales record shall be maintained at the premises at all times and be presented to the City agencies for review upon request.
26. Truck loading, unloading, and trash pick-up is 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.