



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: October 16, 2019

TO: Hearing Officer

SUBJECT: Conditional Use Permit #6745

LOCATION: 34 S. Raymond Avenue

APPLICANT: D'Anna Olsen courtesy of MMXplus on behalf of *Bayou Shrimp*

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

GENERAL PLAN DESIGNATION: MMU (Medium Mixed Use)

CASE PLANNER: Katherine Moran

STAFF RECOMMENDATION: Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Conditional Use Permit #6745 with the conditions in Attachment B

PROJECT PROPOSAL: Conditional Use Permit: To allow the on-site sale and consumption of limited alcohol (beer and wine) in conjunction with the operation of an existing restaurant (Bayou Shrimp).

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 and consumption of alcohol in conjunction with the operation of an existing restaurant is a negligible expansion of use.

BACKGROUND:

Site characteristics: The subject site is located on S. Raymond Avenue between E. Colorado Boulevard and E. Green Street. The subject site is 10,005 square feet and contains a 16,000-square-foot commercial building. The existing restaurant (Bayou Shrimp) occupies a ground floor space measuring 2,050 square feet.

Adjacent Uses: North: Commercial
South: Commercial
East: Commercial/Parking
West: Religious

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

Previous Cases: Conditional Use Permit #1928 – To allow 780 square feet of live entertainment in conjunction with the operation of a 1,800-square-foot bar (Espresso Bar). Approved on April 25, 1989.

Conditional Use Permit #5490 – To allow limited alcohol sales (beer and wine) in conjunction with the operation of a 2,050 square-foot restaurant (Roxolana). Approved on September 1, 2010.

Conditional Use Permit #6219 – To allow the establishment and operation of a 2,004-square-foot electronic game center. Approved on October 15, 2014.

PROJECT DESCRIPTION:

The applicant, Bayou Shrimp, has submitted a Conditional Use Permit application to allow the sale of alcohol (beer and wine) for on-site consumption within the operation of an existing restaurant located in the CD-1, AD-1 zoning district. The existing restaurant is approximately 2,050 square feet in gross floor area, and no dedicated bar area is proposed as part of the project. The current hours of operation are from 3:00 p.m. to 9:30 p.m. Wednesday through Monday, and closed on Tuesdays, which will remain in effect. There would be no sale of alcoholic beverages for off-site consumption at the restaurant. A Conditional Use Permit is required for the on-site consumption of limited alcoholic beverages (beer and wine) within the CD-1, AD-1 zoning district.

ANALYSIS:

Staff's review of a Conditional Use Permit for alcohol sales entails an analysis of whether the proposed location of alcohol sales would affect the general welfare of surrounding properties and whether the proposed use would result in an aggravation of existing alcohol-related problems such as loitering, public drunkenness, sales to minors, noise, and littering. The Hearing Officer may consider existing calls for police response to make a determination of whether there is an undesirable concentration of alcohol uses in the vicinity of the project site.

Zoning and Land Use

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 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).

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. The Zoning Code classifies a restaurant as a bar when it includes a bar area exceeding 500 square feet or 30 percent of the dining area. In this case, the applicant is proposing a restaurant without a dedicated bar area, therefore the use remains classified as a restaurant.

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.

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 existing hours of operation are from 3:00 p.m. to 9:30 p.m. Wednesday through Monday, with the restaurant closed on Tuesdays, which are proposed to remain in effect.

Concentration of Alcohol Sales

The project site is located within Census Tract #4636.02. According to the State Department of Alcoholic Beverage Control (ABC), a maximum of five alcohol licenses for on-site consumption and three alcohol licenses for off-site consumption are allowed in the census tract as a function of the population. Currently there are 42 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 11 establishments that sell alcohol within 250 feet of the subject site, as shown in Table 1 below:

No.	Business Name	Address	License Type
1	Bar Celona	38 E. Colorado Blvd.	Type 47 On-site Full Alcohol
2	Sorriso	46 E. Colorado Blvd.	Type 47 On-site Full Alcohol
3	Club 54	54 E. Colorado Blvd.	Type 47 On-site Full Alcohol
4	Sushi Stop	58 E. Colorado Blvd.	Type 41 On-site Beer & Wine
5	Lucky Baldwin's Pub	17 S. Raymond Ave.	Type 41 On-site Beer & Wine
6	Afloat Sushi	87 E. Colorado Blvd.	Type 41 On-site Beer & Wine
7	Hot Wings Cafe	89 E. Colorado Blvd.	Type 41 On-site Beer & Wine
8	Barney's Beanery	99 E. Colorado Blvd.	Type 47 On-site Full Alcohol
9	Sushi Enya	124 E. Colorado Blvd.	Type 41 On-site Beer & Wine
10	Choza 96	96 E. Colorado Blvd.	Type 47 On-site Full Alcohol
11	Dog Haus Biergarten	93 E. Green St.	Type 47 On-site Full Alcohol

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 South Raymond Street and is surrounded by various commercial, retail, and restaurant uses.

The nearest public park (Pasadena Central Park) is 500 feet southwest of the site. The nearest school (Mayfield Junior High) is 2,500 feet southeast of the site. The nearest religious facility (The Church of Scientology of Pasadena) is 75 feet west of the site. The nearest residential uses are located approximately 280 feet southwest of the project site. It is not anticipated that they would be impacted by the proposed project since the use is a bona-fide restaurant land use, and the hours of operation are consistent with other existing restaurant uses in the Old Pasadena Subdistrict.

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, and 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 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 4.3 - An Active Central District*, which encourages the Central District to continue and to be reinforced as a vital, pedestrian-oriented place, linked to local and regional transit designed for all ages and serving as the focal point of community identity, business activity, employment, living, governance, and culture. The proposed incidental alcohol sales in conjunction with a bona fide restaurant promotes pedestrian activity in a way that is compatible with nearby residential uses. It would bolster a diverse economy base and would be a long-term economic contribution to the City and to the Old Pasadena Subdistrict of the Central District Specific Plan area, which encourages for a diverse mix of land uses and services consistent with office, retail, mixed use, and restaurant uses. The proposed on-site sale and consumption of limited alcohol (beer and wine) in conjunction with the operation of a restaurant would enhance the commercial district by offering a quality dining experience that would attract customers, consistent with General Plan Land Use Element *Policy 31.1 - Focus Growth*, as it would support the neighborhood's economic vitality while preserving and complementing the historic core. The proposed project is also consistent with General Plan Land Use Element *Policy 31.7 - Expanded Economic Opportunities*, which would strengthen the Central District's economic vitality by supporting existing businesses and providing opportunities for new commercial development in underutilized areas with higher development capacity.

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 an existing restaurant is a negligible expansion of use.

REVIEW BY OTHER CITY DEPARTMENTS:

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

CONCLUSION:

It is staff's recommendation 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 #6745

Conditional Use Permit: To Allow the On-Site Sale and Consumption of Alcohol (Beer and Wine) in Conjunction with a Restaurant Use.

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 the existing restaurant use. Nearby uses include restaurants, retail, service businesses, and religious uses. 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.* An overconcentration of alcohol establishments, as defined by Alcoholic Beverage Control (ABC), exists in the Census Tract with the proposed project. However all of the existing alcohol establishments are restaurants. Unlike nightclubs or bars, restaurants are not typically a problematic use. The approval of this request will add to the number of alcohol licenses; however, serving alcohol (beer and wine) at a privately owned restaurant would be an added amenity to the mixed-use neighborhood. Therefore, the project will not contribute negatively to the undue concentration of alcoholic establishments in the Census Tract. The sale of alcoholic beverages for off-site consumption is not proposed as part of this application. No live entertainment is proposed in conjunction with this application and the sale of alcohol in disposable containers is prohibited. Cover charges, age restrictions, and amplified music conducive of a nightclub atmosphere are also prohibited in order to ensure this establishment remains a bona-fide restaurant, and does not deviate from the operation proposed. Additionally, conditions of approval have been included that will limit the potential for negative impacts.
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 public park (Pasadena Central Park) is 500 feet southwest of the site. The nearest school (Mayfield Junior High) is 2,500 feet southeast of the site. The nearest religious facility (The Church of Scientology of Pasadena) is 75 feet west of the site. The nearest residential uses are located approximately 280 feet southwest of the project site. 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 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 a beer and wine, in conjunction with the existing bona-fide restaurant, is not considered a problematic use and will not contribute to an aggravation of existing problems in the vicinity. The Police Department did not express concerns in regards to this application. With this approval, the project is subject to the City's Condition Mitigation Monitoring Program. 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.

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 4.3 - An Active Central District, which encourages the Central District to continue and to be reinforced as a vital, pedestrian-oriented place, linked to local and regional transit designed for all ages and serving as the focal point of community identity, business activity, employment, living, governance, and culture. The proposed on-site sale and consumption of limited alcohol (beer and wine) in conjunction with the operation of a restaurant would enhance the commercial district by offering a quality dining experience that would attract customers, consistent with General Plan Land Use Element Policy 31.1 - Focus Growth, as it would support the neighborhood's economic vitality while preserving and complementing the historic core. The proposed project is also consistent with General Plan Land Use Element Policy 31.7 - Expanded Economic Opportunities, which would strengthen the Central District's economic vitality by supporting existing businesses and providing opportunities for new commercial development in underutilized areas with higher development capacity.*

ATTACHMENT B
CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #6754

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

1. The site/floor plans submitted for building permits, and/or future development shall substantially conform to the site plan submitted with this application and dated "Approved at Hearing October 16, 2019", 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 the on-site sale of alcohol (beer and wine) in conjunction with the operation of a 2,050-square-foot restaurant, without a proposed bar, 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 **PLN2019-00207**, 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, Katherine Moran at (626) 744-6740 to schedule an inspection appointment time.

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9. The primary use shall be a bona fide 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 9:30 p.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 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.