



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: October 16, 2019

TO: Hearing Officer

SUBJECT: Conditional Use Permit #6766

LOCATION: 105 N. Hill Avenue, Suite #102

APPLICANT: Liliger Damasco courtesy of Liquor License Agents on behalf of *Monsieur Crepe*

ZONING DESIGNATION: CG (Commercial General)

GENERAL PLAN DESIGNATION: LC (Low Commercial)

CASE PLANNER: Katherine Moran

STAFF RECOMMENDATION: Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Conditional Use Permit #6766 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. A Conditional Use Permit is required for the on-site sale and consumption of alcohol in conjunction with the operation of a restaurant within the CG zoning district.

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 that 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 small additions, expansions or alterations to 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 considered a negligible expansion of use.

BACKGROUND:

Site characteristics: The subject site is located on the southwest corner of North Hill Avenue and East Union Street. The subject site is approximately 16,679 square feet in size and is developed with a 13,979-square-foot commercial building constructed in 2009. The existing restaurant (Monsieur Crepe) is located on the ground floor in suite #102 and measures 1,462 square feet.

Adjacent Uses: North: Commercial/Office
South: Religious Assembly
East: Commercial Office Use
West: Multi-Family Residential Use

Adjacent Zoning: North: CG (Commercial General) and RM-48-PK (Residential Multi-Family, 0-48 units per acre and Parking Overlay District)
South: PS (Public and Semi-Public)
East: CG (General Commercial)
West: RM-48-PK (Residential Multi-Family, 0-48 units per acre and Parking Overlay District)

Previous Cases: Conditional Use Permit #5557 – To allow limited alcohol sales (beer and wine) in conjunction with the operation of a 1,400 square foot restaurant (Mediterranean Grill, Suite #101) with a seated outdoor patio area of 75 square feet. Approved on June 1, 2011.

Conditional Use Permit #6215 – To allow limited alcohol sales (beer and wine) in conjunction with the operation of a 1,401 square foot restaurant (Dog Haus, Suite #104) with a seated outdoor patio area of 75 square feet. Approved on October 1, 2014.

PROJECT DESCRIPTION:

The applicant, Monsieur Crepe, has submitted a Conditional Use Permit application to allow the sale of alcohol (beer and wine) for on-site consumption in conjunction with the operation of an existing restaurant located in the CG zoning district. The existing restaurant is approximately 1,462 square feet in gross floor area. No dedicated bar area is proposed as part of the project. The alcohol sales and consumption would be indoors only. The current hours of operation are from 8:00 a.m. to 10:00 p.m. daily and would 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 CG zoning district.

ANALYSIS:

Staff's review of a Conditional Use Permit for alcohol entails an analysis of whether the proposed location of alcohol sales and on-site consumption 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 site is located in the CG zoning district, which allows the establishment of a restaurant by right. However, serving limited alcohol (beer and wine) in this zoning district requires approval of a Conditional Use Permit. Specifically, the applicant would be applying for a Type 41 License (On-Sale Beer and Wine for Bona Fide Public Eating Place) with the California Department of Alcohol Beverage Control (ABC). This type of license authorizes the sale of a limited line of alcohol for consumption on the premises in conjunction with a bona-fide restaurant.

According to the applicant, the sale and consumption of alcohol would be ancillary to the service of food for 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 is 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 nightclub atmosphere are also prohibited so that this establishment remains a bona-fide restaurant, and does not deviate from its approved use.

The site is located within the CG zoning district, which encourages a full range of retail and service businesses including those designed to foster pedestrian use, primarily serve the needs of adjacent neighborhoods, and maintain compatibility with residential uses in the immediate area. The on-site sale and consumption of beer and wine in conjunction with the operation of an existing restaurant use is a commercial use which is consistent with the surrounding CG zoning district uses in the vicinity. The request to serve alcohol would enhance the services provided by the proposed restaurant use and would enhance the commercial atmosphere of the neighborhood. The introduction of on-site sale of beer and wine is not viewed as a conflict with the surrounding commercial uses.

Hours of Operation

The subject site faces Hill Avenue, at the southwest corner of Hill Avenue and Union Street. The existing restaurant is surrounded by other general commercial businesses to the north and east. The parcel to the south contains a religious assembly use (Grace Lutheran Church). The parcel to the west (directly behind the site at the corner of Union Street and Holliston Avenue) is zoned multi-family residential (RM-48-PK) and contains residential uses.

Section 17.40.070 (Limited Hours of Operation) of the Zoning Code limits the hours of operation for commercial uses located within 150 feet of a residential zoning district to 7:00 a.m. to 10:00 p.m. Due to the proximity of the existing restaurant to the multi-family residential zoning district, the restaurant is subject to the limited hours of operation. The existing hours of operation is from 8:00 a.m. to 10:00 p.m. daily, which will remain, and is consistent with Section 17.40.070 of the City's Zoning Code.

For the proposed on-site sale and consumption of limited alcohol request, staff is recommending a condition of approval that all alcohol sales cease one-half hour before closing or 9:30 p.m., whichever is earlier.

As previously discussed, the property is surrounded primarily by other commercial uses with similar activities and uses conducted. It is not anticipated that the operation of the restaurant use and the serving of alcohol for on-site consumption would be detrimental to the immediate area. All activities associated with the use would occur in an enclosed environment of an existing commercial building. Adherence with the recommended conditions of approval and periodic condition monitoring would ensure that the use would not deviate from the planned operation reviewed under this application.

Analysis of Existing Alcohol-Related Establishments in the Area

The project site is located within Census Tract #4623.02. According to the State Department of Alcoholic Beverage Control (ABC), a maximum of three alcohol licenses for on-site consumption and one license for off-site consumption are allowed in the census tract, based on the population in the tract. Currently, there are a total of nine licenses within the census tract and four on-site licenses within a 1,000-foot radius of the project. The ABC may approve the applicant's request if the applicant can demonstrate the issuance of a license would serve public convenience or necessity. The ABC only requires this finding to be made by the local governing agency if the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license. Since the applicant does not intend to file for one of those license types, the City is not required to make findings for public convenience and necessity when evaluating this application.

A Conditional Use Permit application for alcohol sales requires the applicant to identify uses with either on-site or off-site alcohol consumption within 1,000 feet of the subject property. According to the applicant, there are currently four establishments within 1,000 feet of the subject property possessing active on-sale or off-sale ABC licenses. Table 1 summarizes these establishments.

Table 1: Existing Alcohol License Types for Businesses within 1,000 Feet

| No. | Business Name | Address | License Type |
|-----|-----------------------------|----------------------------|------------------------------|
| 1 | Mediterranean Grill | 105 N Hill Avenue, #101 | Type 41 On-Site, Beer & Wine |
| 2 | Dog Haus | 105 N Hill Avenue, #104 | Type 41 On-Site, Beer & Wine |
| 3 | Bahn Mi Cho Cali Restaurant | 1525 E Colorado Boulevard | Type 41 On-Site, Beer & Wine |
| 4 | Akira Ramen | 1543 E Colorado Boulevard | Type 41 On-Site, Beer & Wine |

The CG zoning district is intended for a variety of commercial uses such as shopping, dining, and service destinations, including catering to local residents. The approval of this request would add to the number of allowed on-site consumption alcohol licenses which would result in an undue concentration of alcohol establishments, as defined by ABC. However, all of the existing alcohol establishments are restaurants, which are not typically problematic as opposed to nightclubs or bars. Furthermore, serving a limited line of alcoholic beverages (beer and wine) at a restaurant in the commercial district is considered an amenity. The alcohol sale proposal consists of on-site sale and consumption only; there would be no off-site sales. Therefore, the project is not expected to create an undue concentration of alcoholic establishments in the Census Tract.

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 North Hill Avenue and is surrounded by various commercial, retail, and restaurant uses.

The nearest public park (Grant Park) is approximately 2,200 feet southwest of the site. The nearest religious facility (Grace Lutheran Church) is directly adjacent to the subject site to the south. The nearest school is approximately 700 feet southeast of the site (Pasadena City College). The property is surrounded by other general commercial uses to the south, east, and north. Multi-family residential use borders the subject site to the west. Although the restaurant use and proposed alcohol sales is located in close proximity to sensitive uses, it is not anticipated that the alcohol sales would result in an adverse impact on these uses. As discussed above, the hours of operation would be consistent with the limited hours of operation regulated by the City's Zoning Code for businesses located in close proximity to residential uses. Additionally, no outdoor dining is proposed, therefore all activities would occur indoors, limiting its impact on the surrounding properties. Additional conditions of approval identified in Attachment B of this report will ensure that the ancillary sale of beer and wine, in conjunction with a restaurant, will not be detrimental to the surrounding uses.

As proposed, the on-site sale and consumption of limited alcohol would be ancillary to the primary restaurant use. Alcohol sales in conjunction with a bona-fide eating establishment typically do not encourage activities that negatively affect the surrounding area. In addition, no live entertainment is proposed as part of the operation of the existing restaurant. Previously there have been no issues with the surrounding uses. It is staff's determination that the on-site sale and consumption of limited alcohol (beer and wine) in conjunction with the operation of an existing restaurant use would not detrimentally affect the surrounding area. Off-site sale of alcohol would be prohibited at all times. After giving consideration to the location and nature of the proposed project with respect to sensitive uses in the general area, it is staff's assessment that the sale and consumption of beer and wine in conjunction with the existing restaurant would 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 within the operation of an existing restaurant, along with the implementation of the conditions of approval, would enhance the commercial district by creating a quality dining experience. The proposed incidental alcohol sales in conjunction with a bona fide restaurant promotes pedestrian activity

compatible with nearby residential uses. In addition, the project is consistent with the Land Use Element *Policy 11.1, Business Expansion and Growth*, which supports the growth and success of businesses that create new job opportunities and productive and satisfying employment for Pasadena residents. It would bolster a diverse economy base and would be a long-term economic contribution to the City and CG zoning district which encourages a full range of retail and service businesses.

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 proposal was reviewed by the Building Department, Fire Department, Design and Historic Preservation (DHP) Section, Health Department, Police Department, and Department of Transportation. All departments did not have any comments at this time and would review the use during any applicable future building permit plan check processes.

CONCLUSION:

It is staff's recommendation that the findings necessary for approval of the Conditional Use Permit can be made. 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 limited alcohol (beer and wine) 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: Recommended Specific Findings
- Attachment B: Recommended Conditions of Approval

ATTACHMENT A
SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #6766

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 and consumption of alcohol will occur in conjunction with the existing restaurant use. Nearby uses include restaurants, retail, service businesses, religious, and residential 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 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 will 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- and off-site.* Within the immediate vicinity, the nearest religious facility is Grace Lutheran Church directly south of the subject site. The nearest public park, Grant Park, is 2,200 feet southeast of the site. The nearest school (Pasadena City College) is approximately 700 southeast of the site. A multi-family residential use borders the subject site to the west. Because of the proximity of the residential Section 17.40.070 (Limited Hours of Operation) of the Zoning Code and will be conditioned accordingly. Although the restaurant use and proposed alcohol sales is located in close proximity to sensitive uses, it is not anticipated that the alcohol sales will result in an adverse impact on these uses. The proposed operation of the restaurant, including the sale of a beer and wine, will be consistent with existing restaurants within the immediate area, and all the activities related to this restaurant will occur indoors. All alcohol sales will be strictly for on-site consumption; off-site sales of alcohol will be prohibited at all times. Adherence with the recommended conditions of approval

and periodic condition monitoring will ensure that the use will not deviate from the planned operation reviewed under this application. As proposed, the on-site sale and consumption of alcohol will be ancillary to the primary restaurant use. Furthermore, it has been found that alcohol sales in conjunction with a bona-fide eating establishment typically do not encourage activities that cause negative effects on the surrounding area.

4. *The proposed location of the site for the Conditional Use Permit would not aggravate existing 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 12.1, Vital Commercial Districts*. The on-site sale and consumption of limited alcohol within the operation of an existing restaurant, along with the implementation of the conditions of approval, would enhance the commercial district by creating a quality dining experience. The proposed incidental alcohol sales in conjunction with a bona fide restaurant promotes pedestrian activity compatible with nearby residential uses. In addition, the project is consistent with the Land Use Element *Policy 11.1, Business Expansion and Growth*, which supports the growth and success of businesses that create new job opportunities and productive and satisfying employment for Pasadena residents. It would bolster a diverse economy base and would be a long-term economic contribution to the City and CG zoning district which encourages a full range of retail and service businesses.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #6766

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

General

1. The site/floor plans submitted for building permits and/or future development shall substantially conform to the site/floor plans stamped "Approved at Hearing, 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 1,462-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 **PLN2019-00387**, 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.

Planning Division

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. Alcohol sales and consumption shall be indoors only.
11. 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.

12. The last alcoholic beverage shall be served no later than one-half hour before closing or 9:30 p.m., whichever is earlier.
13. The premises shall operate under Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) alcohol license 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.
14. 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.
15. The off-site sale and/or consumption of alcohol is strictly prohibited.
16. Alcoholic beverages shall not be served in disposable containers.
17. The establishment shall allow patrons of all ages at all times.
18. Any live entertainment shall be limited to 75 square feet of floor area.
19. Dancing by customers shall be prohibited at all times.
20. No cover charges, entry fees, or minimum drink orders shall be charged/required of patrons. There shall be no restrictions on the age of customers.
21. Promoter-produced parties or events shall be prohibited. These events include private parties that involve with third persons who profit from organizing and/or drawing attendees to the events.
22. Customized lighting and sound system conducive of a nightclub atmosphere shall be prohibited at all times.
23. Amplification of music shall comply with the regulations of Chapter 9.36 of Pasadena Municipal Code (Noise Ordinance).
24. Signs advertising brands and types of alcohol or the availability of alcohol for sale at the subject site shall not be visible from the exterior of the premises.
25. The following preventive measures shall be undertaken to reduce the potential for alcohol related problems:
 - a. Rideshare service phone numbers shall be posted in a conspicuous location at all times in the area(s) where alcohol is served to customers;
 - b. 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;

- c. The availability of a variety of non-alcoholic beverages shall be made known and offered to customers, and
 - d. No more than four video games shall be permitted.
26. 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.
27. 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.
28. Compliance with the City of Pasadena Refuse Storage regulations, see Section 17.40.120 of the Pasadena Municipal Code, shall be maintained at all times.
29. 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.