



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: November 20, 2019

TO: Hearing Officer

SUBJECT: Conditional Use Permit #6764

LOCATION: 630 E. Colorado Boulevard

APPLICANT: Los 3 Anayas, Inc.

ZONING DESIGNATION: CD-4 (Central District Specific Plan, Pasadena Playhouse subdistrict)

GENERAL PLAN DESIGNATION: High Mixed Use

CASE PLANNER: Jason Van Patten

STAFF RECOMMENDATION: Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Conditional Use Permit #6724 with the conditions in Attachment B

PROJECT PROPOSAL: Conditional Use Permit: To allow the on-site sale and consumption of full alcohol (beer, wine, and distilled spirits) in conjunction with the operation of a restaurant with limited live entertainment (Restaurante Los Anaya).

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). Section 15301 specifically applies to small additions, expansions or alterations to existing structures where there is negligible or no expansion of the use. The accessory sale of alcohol in conjunction with the operation of a restaurant with limited live entertainment is considered a negligible expansion to an existing commercial structure.

BACKGROUND:

Site characteristics: The subject property is located on the south side of Colorado Boulevard between Madison Avenue and El Molino Avenue. The 13,958 square-foot property contains a two-tenant commercial building with a surface parking lot. Vehicular access to the site is from the alley at the rear.

Adjacent Uses: North – Mixed-use
South – Restaurants, Commercial Entertainment
East – Mixed-use
West – Retail

Adjacent Zoning: North – CD-4 (Central District Specific Plan, Pasadena Playhouse subdistrict)
South – CD-4 (Central District Specific Plan, Pasadena Playhouse subdistrict)
East – CD-4 (Central District Specific Plan, Pasadena Playhouse subdistrict)
West – CD-4 (Central District Specific Plan, Pasadena Playhouse subdistrict)

Previous Cases: Conditional Use Permit #6476: To allow the on-site sale and consumption of beer and wine in conjunction with the operation of a restaurant (Dr. Robbins Bistro). Approved October 19, 2016.

Exception #9699: Exception to parking requirement associated with expansion of restaurant. Approved June 16, 1980.

Exception #9044: Exception to parking requirement associated with restaurant. Approved November 18, 1976.

Exception #8876: Exception to parking requirement associated with expansion of restaurant. Approved December 31, 1975.

PROJECT DESCRIPTION:

The applicant, Los 3 Anayas, Inc. has submitted a Conditional Use Permit application to allow the on-site sale and consumption of full alcohol (beer, wine, and distilled spirits) in conjunction with the operation of a restaurant with limited live entertainment (Restaurante Los Anaya). A Conditional Use Permit is required for the accessory sale of alcohol in the CD-4 zoning district.

Full alcohol sales would serve as an additional menu option provided in conjunction with food service and limited live entertainment. The applicant proposes a Type 47 (On-Sale General for Bona Fide Public Eating Place) Alcohol Beverage Control License (ABC). Live entertainment, consisting of musicians and a singer would be limited to a 40 square-foot performance area located inside the restaurant. No off-site sale of alcohol is proposed.

ANALYSIS:

Zoning and Land Use

The subject property is located in the CD-4 (Central District Specific Plan, Pasadena Playhouse subdistrict) zoning District. This subdistrict is intended to provide for a vibrant mixed-use environment that encompasses cultural and arts activities, centered on Colorado Boulevard and the Pasadena Playhouse. A 'Restaurants with Limited Live Entertainment' use is permitted in CD-4 pursuant to Table 3-1 (Allowed Uses and Permit Requirements for CD Zoning Districts), Zoning Code Section 17.30.030 (CD District Land Uses and Permit Requirements). This use is defined as a restaurant that provides accessory live entertainment, where the performance area does not exceed 75 square feet, and customer dancing does not occur. The accessory sale of full alcohol (beer, wine, distilled spirits) is subject to the approval of a Conditional Use Permit (CUP).

The Hearing Officer may approve a Conditional Use Permit for full alcohol sales only after making five findings. The purpose of review is to evaluate whether the proposal would adversely affect the general welfare of surrounding property owners, contribute to an undue proliferation of alcohol beverage sale businesses in the area, or has the potential to detrimentally affect the nearby area.

The proposed floor plan consists of a 1,854 square-foot interior dining area and a 386 square-foot bar and service area. Other interior areas are devoted to kitchen facilities, storage, and common hallways and restrooms. Live entertainment, consisting of musicians and a singer would be limited to a 40 square-foot performance area located inside the restaurant. No dancing is proposed. Outdoor dining is also planned and would occupy 193 square feet of the sidewalk. Alcohol sales would be limited to on-site consumption. No off-site sales is proposed. Included conditions of approval prohibit the sale of alcohol in disposable containers, cover charges, age restrictions. Conditions of approval ensure the establishment shall remain a bona-fide restaurant.

Concentration of Alcohol Sales

The subject property is located in Census Tract 4636.01. The California Department of Alcoholic Beverage Control indicates there is an overconcentration of alcohol licenses for on-sale consumption in the census tract. The census tract allows five on-sale licenses where 25 currently exist. The ABC may approve the applicant's request if they can demonstrate the issuance of a license would serve public convenience or necessity. The City does not require this finding when evaluating applications for on-site alcohol sales and consumption associated with a Type 47 license. Local governing agencies are only required to make a finding of public convenience and necessity for new off-site or public premises licenses when an undue concentration exists within the census tract.

As part of the request, the applicant identified existing alcohol sales (on-sale or off-sale consumption) establishments within 1,000 feet of the subject site, property line to property line. According to the applicant, there are currently 21 establishments within 1,000 feet of the subject property possessing active on-sale or off-sale ABC licenses. Table 1 summarizes the establishments.

Table 1: Alcohol License Types within 1,000 Feet

	Business Name	Address	ABC License Type (Code)
1	Rotisserie Chicken of California	26 N. Los Robles Ave.	On-Sale Beer and Wine (41)
2	New School of Cooking	525 E. Colorado Blvd.	On-Sale Beer and Wine (41)
3	Tender Greens	621 E. Colorado Blvd.	On-Sale Beer and Wine (41)
4	OJI Sushi & Sake Bar	624 E. Colorado Blvd.	On-Sale Beer and Wine (41)
5	Settebello Pizzeria Napoletana	625 E. Colorado Blvd.	On-Sale General (47)
6	Roy's	641 E. Colorado Blvd.	On-Sale General (47)
7	Blaze Fast Fired Pizza	667 E. Colorado Blvd.	On-Sale Beer and Wine (41)
8	Takuya Japanese Restaurant	694 E. Colorado Blvd.	On-Sale Beer and Wine (41)
9	Yahaira's Café	698 E. Colorado Blvd.	On-Sale Beer and Wine (41)
10	Total Wine & More	721 E. Colorado Blvd.	Off-Sale General (21) On-Sale Beer and Wine, Public Premises (42)
11	Nine and Nine Thai Kitchen	738 E. Colorado Blvd.	On-Sale Beer and Wine (41)
12	Target	777 E. Colorado Blvd.	Off-Sale General (21)
13	Monopole Wine	21 S. El Molino Ave.	Off-Sale Beer and Wine (20) On-Sale Beer and Wine, Public Premises (42)
14	The Stand	36 S. El Molino Ave.	On-Sale Beer and Wine (41)
15	Trejo's Cantina	37 S. El Molino Ave.	On-Sale General (47) Caterer Permit (58)
16	Pasadena Playhouse State Theatre of California	39 S. El Molino Ave.	Special On-Sale Beer & Wine Theater (69)
17	Winebee.com	572 E. Green St.	Beer and Wine Importer (9) Beer and Wine Wholesaler (17) Off-Sale Beer and Wine (20)
18	Jacob Marse	655 E. Green St.	Off-Sale Beer and Wine (20)
19	El Portal Restaurant	695 E. Green St.	On-Sale General (47) Caterer Permit (58)
20	Aburi Sushi & Ramen	735 E. Green St.	On-Sale Beer and Wine (41)
21	Tarantino's Pizza	784 E. Green St.	On-Sale Beer and Wine (41)

The ABC considers there to be an overconcentration of licenses in the census tract because the number of existing licenses exceed the number allowed. However, the subject property is located in the Pasadena Playhouse subdistrict of the Central District Specific Plan. The Central District is the primary business, financial, retail and government center of the City. This subdistrict lies in a transit-oriented development area that generally consists of nonresidential uses and higher levels of pedestrian traffic. Uses include offices, theatres, universities, museums, bookstores, restaurants, and mixed-use developments. The proposed on-site sales and consumption of full alcohol would continue to serve as an amenity to the area. The applicant's request would upgrade an alcohol license (Type 41 On-Sale Beer and Wine for Bona Fide Public Eating Place) that the City and ABC previously approved for the prior occupant of tenant space (Dr. Robbins Bistro). In addition, many of the existing alcohol serving establishments nearby operate as restaurants and not bars. Unlike traditional nightclubs or bars,

restaurants typically serve alcohol with food, decreasing any negative effects on the surrounding area.

Proximity to Sensitive Uses

The subject property is not in close proximity to typically sensitive uses, such as park and recreation facilities or hospitals. The nearest public park (Memorial Park) is approximately 3,100 feet northwest of the site. The nearest school (New School of Cooking) is approximately 500 feet to the west. The nearest religious facility (Pasadena Presbyterian Church) is approximately 300 feet to the west. Residential units are located within the abutting property to the east and across Colorado Boulevard to the north in existing mixed-use developments. There are no residential zoning districts or hospital nearby. The proposed sale and consumption of alcohol would occur on property that has a history of selling alcohol for on-site consumption. In addition, alcohol sales would occur as part of a nonresidential use that lies within a nonresidential zoning district that is in an urban area. Since the proposed operation will function as a traditional restaurant, staff determined that on-site alcohol sales will not be a detriment to the existing uses nearby.

Parking

The subject property consists of two tenant spaces and a 21-space surface parking lot. A 'Restaurants' use previously occupied the subject tenant space. The proposed use ('Restaurants with Limited Live Entertainment) has the same parking requirement as the prior use ('Restaurants'). Since the change in use does not increase the parking requirement, no additional parking is required and the number existing is considered acceptable. Should the applicant expand the tenant space, additional parking may be required.

Hours of Operation

Although the Zoning Code does not restrict hours of operation in the Central District, the restaurant proposes to operate between 6:00 a.m. and 2:00 a.m. daily. Though there are no residential districts nearby, staff recommends a condition of approval requiring alcohol sales cease one-half hour prior to close.

GENERAL PLAN CONSISTENCY:

The subject property is located in the Central District Specific Plan, which emphasizes a higher density, mixed-use environment that would support transit- and pedestrian-oriented mobility strategies. The proposed alcohol sales are consistent with General Plan Land Use Element policy 12.1 (Vital Commercial Districts). The proposed on-site sale and consumption of alcohol in conjunction with the operation of a restaurant with limited live entertainment would enhance the commercial district by offering a quality dining experience. This supports the General Plan's goal of enabling residents to acquire desired goods as well as attracting customers from surrounding communities.

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). Section 15301 specifically applies to small additions, expansions or alterations to existing structures where

there is negligible or no expansion of the use. The accessory sale of alcohol in conjunction with the operation of a restaurant with limited live entertainment is considered a negligible expansion to an existing commercial structure.

REVIEW BY OTHER CITY DEPARTMENTS:

The Building and Safety and Design and Historic Preservation sections along with the Departments of Transportation, Fire, Public Works, Public Health, and Police reviewed the proposal. Though not opposed to the project, staff received recommended conditions of approval from the Police Department and incorporated them in Attachment B.

CONCLUSION:

Staff determined the findings for approval of the Conditional Use Permit can be made. The site is located in a nonresidential zoning district that encourages a diverse mix of land uses and service. The proposed accessory sale of alcohol for on-site consumption would be complimentary to other existing restaurants nearby that sell alcohol for on-site consumption. The establishment would provide a full menu during hours of operation with the sale of alcohol incidental to food sales. Conditions of approval 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 CONIDITONAL USE PERMIT #6764

Conditional Use Permit

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 a restaurant use on property that fronts Colorado Boulevard. Nearby nonresidential uses include restaurant, retail, and mixed-use developments, consistent with the proposal. The use will operate in accordance with City laws, ordinances, and conditions of approval that ensure the compatible existence of this use with 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.* Though the ABC considers there to be an overconcentration of licenses in the census tract, the proposal will add an amenity to the area. Many of the existing 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 any negative effects on the surrounding area. This Conditional Use Permit prohibits off-site consumption of alcohol or the use of disposable containers, which should limit any undesirable situation on the premise. To ensure the proposed establishment remains a bona-fide restaurant, the Conditional use Permit prohibits cover charges and age restrictions.
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 wine) for sale for consumption both on- and off-site.* The subject property is not in close proximity to typically sensitive uses, such as park and recreation facilities or hospitals. The nearest public park (Memorial Park) is approximately 3,100 feet northwest of the site. The nearest school (New School of Cooking) is approximately 500 feet to the west. The nearest religious facility (Pasadena Presbyterian Church) is approximately 300 feet to the west. Residential units are located within the abutting property to the east and across Colorado Boulevard to the north in existing mixed-use developments. There are no residential zoning districts or hospital nearby. The proposed sale and consumption of alcohol would occur on property that has a history of selling alcohol for on-site consumption. In addition, alcohol sales would occur within a nonresidential use that lies within a nonresidential zoning district. Since the proposed operation will function as a traditional restaurant, staff believes the on-site alcohol sales will not be a detriment to the existing uses nearby. The proposed sale and consumption of alcohol would occur on property that has a history of selling alcohol for on-site consumption. In addition, alcohol sales would occur within a nonresidential use that lies within a nonresidential zoning district. Since the proposed operation will function as a traditional restaurant, staff determined the on-site alcohol sales will not be a detriment to the existing uses nearby.
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 alcohol in conjunction with a bona fide restaurant is generally not a problematic use. The Police Department reviewed the proposal, and while not opposed, provided recommended conditions. 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. 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.* The subject property is located in the Central District Specific Plan, which emphasizes a higher density, mixed-use environment that would support transit- and pedestrian-oriented mobility strategies. The proposed alcohol sales are consistent with General Plan Land Use Element policy 12.1 (Vital Commercial Districts). The proposed on-site sale and consumption of alcohol in conjunction with the operation of a restaurant would enhance the commercial district by offering a quality dining experience. This supports the General Plan's goal of enabling residents to acquire desired goods as well as attracting customers from surrounding communities.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #6764

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

General

1. The site/floor plans to be submitted for building permits shall substantially conform to the site/floor plans stamped "Approved at Hearing November 20, 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, except where an extension of time is approved in compliance with Zoning Code Section 17.64.040.C (Time Limits and Extensions).
3. The approval of this application authorizes the on-site sale and consumption of full alcohol (beer, wine and distilled spirits) as part of the operation of a restaurant with limited live entertainment.
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 Expressive 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 proposed project, Activity Number **PLN2019-00372** 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. Contact the Planning Case Manager, Jason Van Patten at (626) 744-6760 to schedule an inspection appointment time.

Planning

8. The premises shall operate under ABC License Type 47 (On-Sale General 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.
9. The primary use shall be a bona fide restaurant with ancillary alcohol sales (beer, wine and distilled spirits) intended for on-site consumption only. The sale of alcoholic beverages shall be in conjunction with food sales. Food service along with full menu shall be made available during all hours of business operation.
10. All alcohol sales shall cease one-half hour before closing, but no later than 1:30 a.m.
11. Off-site sale of alcohol is prohibited at all times.

12. Any live entertainment shall be limited to 75 square feet of floor area. Dancing by customers shall be prohibited at all times.
13. Alcoholic beverages shall not be served in disposable containers.
14. No cover charges, entry fees, or minimum drink orders shall be required of patrons. There shall be no restrictions on the age of customers.
15. 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.
16. Customized lighting and sound system conducive of a nightclub atmosphere shall be prohibited at all times.
17. Amplification of music shall comply with the regulations of Chapter 9.36 (Noise Restrictions) of the Pasadena Municipal Code.
18. 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.
19. 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. Taxicab 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.
20. 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.
21. 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.
22. 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.

23. 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.

Police Department

24. Cameras shall be installed on the premises, specifically covering the rear parking lot. Cameras shall have the capability to keep recordings for seven days and be accessible to the Police Department.

25. No exterior/external music shall be allowed on the sidewalk.