



## PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**DATE:** May 6, 2020

**TO:** Hearing Officer

**SUBJECT:** Conditional Use Permit #6789

**LOCATION:** 38 West Colorado Boulevard

**APPLICANT:** Charles Pastron, on behalf of Jake's Trustworthy Tap Room & Burgers

**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:** Carlos Chacon

**STAFF RECOMMENDATION:** Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Conditional Use Permit #6789 with the conditions in Attachment B

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**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 a proposed restaurant (Jake's Trustworthy Tap Room and Burgers).

**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 a restaurant is a negligible expansion of use.

**BACKGROUND:**

**Site characteristics:**

The subject site is located on the south side of West Colorado Boulevard between South De Lacey Avenue and South Fair Oaks Avenue, adjacent to Mills Place. The subject site is 8,051 square feet and contains a 21,547 square-foot commercial building. The proposed restaurant (Jake's Trustworthy Tap Room and Burgers) would occupy an existing ground floor restaurant space, with frontage on Colorado Boulevard and Mills Place, measuring 1,267 gross square feet, which includes 408 square feet of outdoor dining.

**Adjacent Uses:**

North: Mixed-Use Commercial – Retail/Office  
South: Mixed-Use Commercial – Restaurant/Retail/Office  
East: Mixed-Use Commercial – Restaurant/Office  
West: Mixed-Use Commercial – Restaurant/Office

**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 #2345 –To allow the establishment of a Commercial Entertainment Use (Billiards) in conjunction with on-site alcohol Sales. Approved on March 6, 1991.

Conditional Use Permit #2738 – To allow the establishment of a Commercial Entertainment Use (Billiards) in conjunction with on-site alcohol Sales. Approved on July 13, 1993.

**PROJECT DESCRIPTION:**

The applicant, Charles Pastron, on behalf of Jake's Trustworthy Tap Room and Burgers, has submitted a Conditional Use Permit application to allow the sale of limited alcohol (beer and wine) for on-site consumption within the operation of a proposed restaurant located in an existing restaurant tenant space in the CD-1, AD-1 zoning district. The proposed restaurant is 1,267 square feet in gross floor area, which includes a 408 square-foot outdoor dining area, and would operate from 10:00 a.m. to 2:00 a.m. daily. 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. For this particular site and restaurant, the police department did not have any concerns with this application.

### *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 restaurant tenant space is existing and the new operator proposes to continue the same use with no added floor area; therefore, the required off-street parking for the tenant space remains unchanged. 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. In other words, alcohol sales would only occur 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, however, 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. Additional regulations intended to ensure the restaurant does not operate as a nightclub, and remains a bona-fide restaurant, include prohibiting a variety of items such as the sale of alcohol in disposable containers, cover charges, age restrictions, and amplified music conducive of a nightclub atmosphere.

The on-site sale and consumption of beer and wine, in conjunction with the operation of a restaurant, would be consistent with the surrounding uses within the Central District, Old Pasadena Subdistrict, and would promote the vitality of the restaurant. Further, the ancillary use of on-site sale of beer and wine in conjunction with a restaurant is not in conflict with the surrounding commercial uses. Alcohol sales 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 proposed hours of operation are from 10:00 a.m. to 2:00 a.m. daily.

### *Concentration of Alcohol Sales*

The project site is located within Census Tract #4637. According to the State Department of Alcoholic Beverage Control (ABC), based on a ratio of one alcohol license for every 987 persons living in the census tract, and a total of 1,974 residents in the census tract, a maximum of two alcohol licenses are allowed. Currently there are 37 on-site licenses within the census tract.

The applicant is proposing to add an additional 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. If the proposal were for a public premises, such as a bar or lounge, or for off-site sale of alcohol, ABC would require 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. This license request is for beer and wine, and only in conjunction with a restaurant operation, which is in line with the typical surrounding uses.

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:

<b>No</b>	<b>Business Name</b>	<b>Address</b>	<b>License Type</b>
1	Sushi Roku Restaurant	33 Miller Alley	Type 47 On-site Full Alcohol
2	iPic Theater	42 Miller Alley	Type 47 On-site Full Alcohol
3	Sage Vegan Bistro	41 Hugus Alley	Type 47 On-site Full Alcohol
4	IL Fornaio Italian Restaurant	24 W. Union St	Type 47 On-site Full Alcohol
5	Cheesecake Factory Restaurant	2 W. Colorado Blvd	Type 47 On-site Full Alcohol
6	Edwin Mills by Equator	22 Mills Place	Type 47 On-site Full Alcohol
7	El Toreo Mexican Restaurant	21 S. Fair Oaks Ave	Type 40 On-site Beer
8	All India Cafe	39 S. Fair Oaks Ave	Type 41 On-site Beer & Wine
9	Little Sheep Mogolian Hot Pot	45 S. Fair Oaks Ave	Type 47 On-site Full Alcohol
10	Beer & Claw Cajun Restaurant	61 S. Fair Oaks Ave #130	Type 47 On-site Full Alcohol
11	Green Street Tavern	69 W. Green St	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 West Colorado Boulevard and is surrounded by various commercial, retail, and restaurant uses.

The nearest public park (Pasadena Central Park) is 1,302 feet (0.25 miles) southwest of the site. The nearest schools (Maranatha High School and St. Andrews Catholic School) are 1,669 feet (0.32 miles) southwest and 1,630 feet (0.31 miles) northeast of the site. The nearest religious facility (Friendship Baptist Church) is 623 feet (0.12 miles) southwest of the site. The nearest residential uses are located approximately 280 feet (0.05 miles) southeast of the project site. It is not anticipated that any of these locations 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. The applicant is proposing to operate the restaurant with minimal operational square footage. The proposed restaurant is 1,267 square feet in size, of which, 468 square feet is the indoor dining area and 408 square feet is the outdoor dining area. The outdoor dining area are will be surrounded by a fence-like barrier to delineate the public areas from the proposed outdoor dining areas.

In addition, there would not be any sale of alcoholic beverages for off-site consumption, and live entertainment is not 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, and can be approved.

#### **GENERAL PLAN CONSISTENCY:**

The proposed on-site sale and consumption of limited alcohol (beer and wine) in conjunction with the operation of a restaurant is consistent with General Plan Land Use Element Policy 11.1 (Business Expansion and Growth), in that the proposed project would support the continuation of the use as it is in harmony with its surroundings and provides growth and success of businesses that creates new job opportunities for Pasadena's residents. The proposed project is also consistent with General Plan Land Use Element Policy 12.1 (Vital Commercial Districts), as the proposed project encourages diversity of shopping and dining experiences, enabling Pasadena's residents to acquire desired goods and services within the City, as well as to attract customers from surrounding communities. The use will operate in accordance with City laws, ordinances, and conditions of approval to ensure compatibility with the surrounding uses. The granting of a Conditional Use Permit for alcoholic beverage sales will not be detrimental to the public health, safety, or general welfare of the surrounding neighborhood in any way.

#### **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 Section, Health Department, Police Department, Public Works Department, and Department of Transportation. No comments on the application were received.

**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 limited 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 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 #6789**

Conditional Use Permit: To Allow the On-Site Sale and Consumption of Limited 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 limited alcohol will occur in conjunction with the proposed 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 within 250 feet of the site 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 limited 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 1,302 feet (0.25 miles) southwest of the site. The nearest schools (Maranatha High School and St. Andrews Catholic School) are 1,669 feet (0.32 miles) southwest and 1,630 feet (0.31 miles) northeast of the site. The nearest religious facility (Friendship Baptist Church) is 623 feet (0.12 miles) southwest of the site. The nearest residential uses are located approximately 280 feet (0.05 miles) southeast 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 proposed 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 11.1 (Business Expansion and Growth), in that the proposed project would support the continuation of the use as it is in harmony with its surroundings and provides growth and success of businesses that creates new job opportunities for Pasadena's residents. The proposed project is also consistent with General Plan Land Use Element Policy 12.1 (Vital Commercial Districts), as the proposed project encourages diversity of shopping and dining experiences, enabling Pasadena's residents to acquire desired goods and services within the City, as well as attract customers from surrounding communities. The use will operate in accordance with City laws, ordinances, and conditions of approval to ensure compatibility with the surrounding uses. The granting of a Conditional Use Permit for alcoholic beverage sales will not be detrimental to the public health, safety, or general welfare of the surrounding neighborhood in any way.



**ATTACHMENT B**  
**CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #6789**

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 May 6, 2020", 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 1,267 square-foot restaurant, including 408 square feet of outdoor dining, 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 **PLN2019-00548**, 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, Carlos Chacon at (626) 744-7123 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. As part of the building plan check process, the applicant shall submit plans that provide a 12-inch tall glass barrier, or other material, on top of the proposed service counter. Final material and location of the barrier will be subject to review and approval by the Zoning Administrator prior to the issuance of a building permit.
11. 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.

12. The last alcoholic beverage shall be served no later than one-half hour before closing or 1:30 a.m., whichever is earlier.
13. 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.
14. Any live entertainment shall be limited to 75 square feet of floor area. Dancing by customers shall be prohibited at all times.
15. Alcoholic beverages shall not be served in disposable containers.
16. No cover charges, entry fees, or minimum drink orders shall be required of patrons.
17. 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.
18. Customized lighting and sound system conducive to a nightclub atmosphere shall be prohibited at all times.
19. Amplification of music shall comply with the regulations of Chapter 9.36 (Noise Restrictions) of the Pasadena Municipal Code.
20. 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.
21. 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.
22. 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.

23. 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.
24. 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.
25. The establishment shall allow patrons of all ages at all times.
26. 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.
27. 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.