



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: May 20, 2020

TO: Hearing Officer

SUBJECT: Conditional Use Permit #6783

LOCATION: 1218 East Colorado Boulevard

APPLICANT: Ananya Pactachai, on behalf of Daisy Mint

ZONING DESIGNATION: ECSP-CG-1 (East Colorado Specific Plan,-Commercial General, sub-area 1)

GENERAL PLAN DESIGNATION: Medium Mixed Use

CASE PLANNER: Carlos Chacon

STAFF RECOMMENDATION: Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Conditional Use Permit #6783 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 (Daisy Mint).

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 the south side of East Colorado Boulevard, between South Chester Avenue and South Michigan Avenue. The subject site is 10,035 square feet in area and contains a 3,000 square-foot, multi-tenant, commercial building. The existing restaurant (Daisy Mint) occupies an existing ground floor tenant space, with frontage on East Colorado Boulevard, measuring 1,275 gross square feet.

Adjacent Uses: North: Commercial – Public Parking/Office
South: Commercial – Restaurant/Retail/Office
East: Commercial – Personal Services
West: Commercial – Specialized Education/Office

Adjacent Zoning: North: ECSP-CG-1 (East Colorado Specific Plan, Commercial General, sub-area 1)
South: CL (Commercial Limited)
East: ECSP-CG-1 (East Colorado Specific Plan, Commercial General, sub-area 1)
West: ECSP-CG-1 (East Colorado Specific Plan, Commercial General, sub-area 1)

Previous Cases: None.

PROJECT DESCRIPTION:

The applicant, Ananya Pactachai, on behalf of Daisy Mint, has submitted a Conditional Use Permit application to allow the sale of limited alcohol (beer and wine) for on-site consumption in conjunction with the operation of an existing restaurant, located in the ECSP-CG-1 (East Colorado Specific Plan, Commercial General, sub-area 1) zoning district. The existing restaurant is 1,275 square feet in area, not including a 168 square-foot outdoor dining area located at the rear of the unit, which is delineated by a fence barrier to separate the parking areas from the existing outdoor dining area. The applicant's request is to allow the on-site sale of beer and wine in conjunction with the existing restaurant, between the hours of 11:00 a.m. to 9:00 p.m., daily. A Conditional Use Permit is required for the on-site sale and consumption of limited alcohol (beer and wine) within the ECSP-CG-1 zoning district.

ANALYSIS:

The subject property is located in the ECSP-CG-1 (East Colorado Specific Plan, Commercial General, sub-area 1) zoning district. The Zoning Code allows a restaurant land use by-right within the subject zoning district. The proposed accessory sale of limited alcohol (beer and wine) for on-site consumption is subject to the approval of a Conditional Use Permit pursuant to Section 17.31.040 Table 3-3 (East Colorado Specific Plan Land Uses and Permit Requirements) of the Zoning Code.

The Conditional Use Permit process allows the City to review a project to determine if the proposed project would be compatible with the surrounding area and require compliance with specific conditions related to the operation of the use, specifically the on-site sale and

consumption of limited alcohol (beer and wine) in conjunction with the existing restaurant. In order to approve a CUP, six specific findings must be made in the affirmative. These findings relate to a project meeting the intent and purpose of the subject property's Zoning District and the Zoning Code, conformance with the General Plan, not having a negative impact on the surrounding properties, and being compatible with surrounding uses. In this case, the analysis focuses on whether the request to allow on-site sales and consumption of limited alcohol (beer and wine) will create negative impact to the general welfare of the surrounding property owners or result in an aggravation of existing alcohol-related problems such as loitering, public drunkenness, sales to minors, and noise. The Hearing Officer may also 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.

According to the applicant, the on-site sale and consumption of limited alcohol (beer and wine) would be ancillary to the service of food. The service of beer and wine would be offered to restaurant patrons dining inside the restaurant and within the outdoor patio area through the typical tableside service food. The sale and consumption of limited alcohol (beer and wine) would occur on-site and in conjunction with food sales only. The on-site sale and consumption of beer and wine, in conjunction with the operation of a restaurant, would be consistent with the surrounding restaurant and retail uses within the ECSP-CG-1 zoning district, and would promote the vitality of the restaurant. The conditions of approval, provided in Attachment B of this report, would ensure the existing land use remains as a bona fide restaurant.

Hours of Operation

Section 17.40.070 of the Zoning Code states that uses on a site that are located 150 feet or less from of a residential zoning district may operate between the hours of 7:00 a.m. and 10:00 p.m., by right. In order to operate before 7:00 a.m. and/or after 10:00 p.m., a Conditional Use Permit would first need to be approved. In this instance, the subject property is not located within 150 feet or less from a residential zoning district and the limited hours of operation restrictions do not apply. The hours of operation would be from 11:00 a.m. to 9:00 p.m., daily.

Concentration of Alcohol Sales

The subject property is located within Census Tract #4635.00. According to the State Department of Alcoholic Beverage Control (ABC), based on a ratio of one alcohol license for on-site consumption for every 1,275 persons living in the census tract, a maximum of five alcohol licenses for on-site consumption are allowed. Currently there are 35 on-site licenses within the census tract.

The applicant is proposing to add an additional license for on-site sale and consumption to an 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 premise, such as a bar or lounge, or for off-site sale of alcohol, ABC would require the findings be made by the governing body. However, because the request is for the on-site sale and consumption of limited alcohol (beer and wine) in conjunction with an existing restaurant and not for a public premise, such as a bar or lounge or the 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 1,000 feet of the subject property.

Based on the information provided by the applicant and staff research, there are currently three establishments that sell alcohol within 1,000 feet of the subject site, as shown in Table 1 below:

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

No	Business Name	Address	License Type
1	Matsuri Japanese Restaurant	1065 E. Green St.	Type 41 On-site Beer and Wine
2	Amigo's Restaurant	1074-76 E. Colorado Blvd.	Type 47 On-site Full Alcohol
3	Pat's Liquor	1072 E. Colorado Blvd.	Type 21 Off-site Full Alcohol

The ECSP-CG-1 zoning district is intended to promote a vibrant mix of land uses, a unified streetscape, and a series of distinctive "places" along the Boulevard by retaining the eclectic mix of uses and protect the vitality of small, independent businesses. The sale of beer and wine as proposed, an ancillary service to an existing restaurant, would uphold East Colorado Boulevard as a location for specialty and niche retail businesses. 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 1,000 feet of the site are restaurants with on-site sales and consumption. Unlike nightclubs or bars, restaurants are not typically a problematic use. The approval of this request would add to the number of alcohol licenses; however, serving limited alcohol (beer and wine) at a restaurant would be an added amenity. Therefore, the project would not contribute negatively to the undue concentration of alcoholic establishments in the Census Tract.

Proximity to Sensitive Uses

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

The nearest public park (Grant Park) is 1,018 feet (0.19 miles) south of the site. The nearest school (Merryland Preschool) is 528 feet (0.1 miles) east of the subject property. The nearest religious facility (Holliston United Methodist Church) is 732 feet (0.13 miles) northeast of the subject property. The nearest residential uses, are located approximately 299 feet (0.05 miles) north of the subject property, across Colorado Blvd. It is not anticipated that any of these locations would be impacted by the proposed project since the use is an existing restaurant, with proposed limited alcohol sales, and hours of operation that are consistent with other existing restaurant uses in the East Colorado Specific Plan, Commercial General, sub-area 1.

As proposed, the on-site sale and consumption of limited alcohol (beer and wine) would be ancillary to the existing restaurant use. The existing restaurant will continue to operate in the same 1,275 square foot tenant space with no proposed changes to the existing area. The existing 168 square-foot outdoor dining area is delineated by a fence barrier to separate the parking areas from the existing outdoor dining area.

In addition, there would not be any sale of alcoholic beverages for off-site consumption. Adherence to 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. 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 alcohol (beer and wine)

in conjunction with the existing restaurant would 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 would 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 would not be detrimental to the public health, safety, or general welfare of the surrounding neighborhood.

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 proposed on-site sale and consumption of limited alcohol (beer and wine) in conjunction with an existing restaurant was reviewed by the Building Division, Fire Department, Design and Historic Preservation Section, Health Department, Police Department, and Department of Transportation. No comments on the application were received.

CONCLUSION:

It is staff's assessment that all findings for approval of the Conditional Use Permit can be made. The subject property is located in within the East Colorado Specific Plan, which encourages a diverse mix of land uses and services. The proposed sale of limited alcohol (beer and wine) 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 Conditions of Approval in Attachment B.

Attachments:

Attachment A: Recommended Findings of Approval

Attachment B: Recommended Conditions of Approval

ATTACHMENT A
SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #6783

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 existing restaurant use. Nearby uses include restaurants, retail, and service businesses. 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 existing 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, most of the existing alcohol establishments within 1,000 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 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 (Grant Park) is 1,018 feet (0.19 miles) south of the subject property. The nearest school (Merryland Preschool) is 528 feet (0.1 miles) east of the subject property. The nearest religious facility (Holliston United Methodist Church) is 732 feet (0.13 miles) northeast of the subject property. The nearest residential uses, are located approximately 299 feet (0.05 miles) north of the subject property. After giving consideration to the location and nature of the proposed use with respect to sensitive uses in the general area, the sale of limited alcohol (beer and wine) in conjunction with the existing restaurant would not detrimentally affect the surrounding area. With the exception of the outdoor dining patio area, all activities associated with the use would occur in an enclosed environment. All alcohol sales will be strictly for on-site consumption; off-site sales of alcohol would 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.

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 condition monitoring. 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.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #6783

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 20, 2020", except as modified herein.
2. The right granted under this application must be enacted within 48 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 existing restaurant 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 **PLN2019-00518**, 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 Monitoring. Contact the Planning Case Manager, Carlos Chacon at (626) 744-7123 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. The premises shall operate under ABC License Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) and be maintained as a bona fide eating establishment. The premises shall not obtain any other public premises type licenses without the approval of a Conditional Use Permit and/or Expressive Use Permit.
11. The last alcoholic beverage shall be served no later than one-half hour before closing or 1:30 a.m., whichever is earlier.

12. The provision of a bar or counter used for preparing and serving alcoholic beverages within the establishment shall require a modification to this Conditional Use Permit or a new Conditional Use Permit.
13. Any live entertainment shall be limited to 75 square feet of floor area. Dancing by customers shall be prohibited at all times.
14. Alcoholic beverages shall not be served in disposable containers.
15. No cover charges, entry fees, or minimum drink orders shall be required of patrons.
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.