



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: March 20, 2024

TO: Hearing Officer

SUBJECT: Modification of Conditional Use Permit #6538

LOCATION: 168 West Green Street, Suite 107 & 109

APPLICANT: Freddy Castillo

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

GENERAL PLAN DESIGNATION: Medium Mixed Use

CASE PLANNER: Ivan Galeazzi

STAFF RECOMMENDATION: Adopt the Environmental Determination and the Specific Findings in Attachment A to **approve** the Modification to Conditional Use Permit #6538 with the conditions in Attachment B.

PROJECT PROPOSAL: Modification to Conditional Use Permit: To allow a Modification to Conditional Use Permit #6538, which was approved on April 19, 2017. The approval allowed the on-site sale and consumption of limited alcohol (beer and wine) in conjunction with the operation of a Personal Improvement Services use (Pinot's Palette) in Suite 109. The applicant intends to expand the business into the adjacent tenant space, Suite 107, and requests to modify the Conditional Use Permit to allow alcohol sales within the added space.

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; therefore, there are no unusual circumstances. Section 15301 specifically exempts the operation, permitting,

licensing or minor alteration of existing structures where there is negligible or no expansion of the existing or former use. The proposed business expansion into the adjacent tenant space and additional alcohol sales area are considered a negligible expansion to an existing commercial structure; therefore, the proposed modification is exempt from environmental review.

BACKGROUND:

Site characteristics:

The tenant space is located within a three-story, mixed-use building, constructed in 2014. The building has commercial uses on the ground floor and apartments on the second and third floors. The site is bounded by Green Street to the north, Dayton Street to the south, Pasadena Avenue to the west and De Lacey Avenue to the east. The existing business operates from Suite 109, which is approximately 1,859 square feet, and the adjacent tenant space, Suite 107 is 1,131 square feet. When combined, the total floor area of the business is 2,990 square feet. The suites are located on the ground level, with direct access from Green Street.

Adjacent Uses:

North – Mixed-Use (Residential/Retail)
South – Multi-Family Residential
East – Multi-Family Residential
West – 710 Freeway

Adjacent Zoning:

North – CD-1-AD-1 (Central District Specific Plan, Old Pasadena subdistrict, Alcohol Overlay Density 1)
South – CD-1 (Central District Specific Plan, Old Pasadena subdistrict)
East – CD-1-AD-1 (Central District Specific Plan, Old Pasadena subdistrict, Alcohol Overlay Density 1)
West – PS (Public and Semi-Public)

Previous Zoning Cases on this property:

Minor Conditional Use Permit #4703 – To allow the development of a mixed-use project, over three city blocks, consisting of 820 residential units and 22,154 square feet of commercial space. Approved on September 18, 2006.

Conditional Use Permit #6538 – To allow the on-site sale and consumption of limited alcohol (beer and wine) in conjunction with the operation of a Personal Improvement Services use (Pinot’s Palette). Approved April 19, 2017.

PROJECT DESCRIPTION:

The applicant, Freddy Castillo of Paint and Wine Collaboration, LLC has submitted a Modification to Conditional Use Permit #6538, which was approved on April 19, 2017. The approval allowed the on-site sale and consumption of limited alcohol (beer and wine) in conjunction with the operation of a Personal Improvement Services use (Pinot’s Palette) in Suite 109. The Applicant intends to expand the business into the adjacent tenant space, Suite 107, and requests to modify the Conditional Use Permit to allow alcohol sales within the added space.

ANALYSIS:

Pursuant to Zoning Code Section 17.64.050 (Changes to an Approved Project), applicants may request changes to an approved project. A request to expand the approved floor area of alcohol sales by 10 percent or more requires approval by a Hearing Officer. The Hearing Officer may approve the expansion in alcohol sales area only after making five findings for a Conditional Use Permit that are identified in the Zoning Code. The sale of alcohol requires a Conditional Use Permit (CUP) in the CD-1-AD-1 (Central District Specific Plan, Old Pasadena subdistrict, Alcohol Overlay Density 1) zoning district. 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. 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 the surrounding property owners 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.

The CD-1-AD-1 zoning district is intended 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. The on-site sale and consumption of limited alcohol in conjunction with the expansion and operation of an existing Personal Improvement Services would be consistent and compatible with existing commercial uses within the Central District Specific Plan. The use would continue to enhance the commercial atmosphere of the mixed-use building and Green Street corridor with the various residential and commercial uses.

Pinot's Palette currently provides group instructional painting sessions that are open to the public, with each session lasting approximately two and half to three hours. For a fee, customers can register online or at the establishment to attend a painting session. The business also provides private group instruction. The establishment provides the customer with the painting materials, workstation and an instructor to lead the group.

Currently, customers have the option of purchasing alcoholic drinks (beer and wine) for on-site consumption, during their painting session, at an existing bar within Suite 109. This is also the location of the main painting studio. The fees for the painting session do not include alcoholic drinks; customers may choose not to drink alcohol while attending a painting session. Suite 107 would provide a secondary painting studio for customers, who could similarly consume alcohol during their painting session. Suite 107 would be internally connected to Suite 109. Alcohol sales would only be available to customers over the age of 21 that are registered for a painting session. There are no minimum drink purchase requirements. The consumption of alcohol would be limited to the interior of the establishment, no outdoor painting or seating area is provided, and the off-site sale of alcohol is not proposed. Customers are not be allowed to bring their own alcohol for consumption at the establishment. Private group painting sessions would operate in the same manner as if it was a public session.

Concentration of Alcohol Sales

The project site is located within Census Tract #4637. According to the State Department of Alcoholic Beverage Control (ABC), a maximum of four alcohol licenses for on-site consumption are allowed in the census tract, based on the population in the tract. Currently, there are a total

of 33 active, on-site licenses issued by ABC within the census tract. In this case, the applicant is not proposing to add another license, but to expand the allowed alcohol sales area into the adjacent suite.

A CUP application for limited alcohol sales in conjunction with a Personal Improvement Services use requires the applicant to identify all uses that sell alcohol for either on-site or off-site consumption within 250 feet of the site. Based on the information provided, there are currently four establishments within 250 feet of the subject site that sell alcohol, as indicated in this table:

Alcohol License Types for Existing Business within 250 feet

Site	Business Name	Address	License Type
1	Entre Nous French Bistro	119 Green St.	(Type 41, On-Sale) Beer and Wine for Bona-fide Public Eating
2	Buca Di Beppo	80 Green St.	(Type 47, On-Sale) General for Bona-fide Public Eating
3	White Horse Bar and Lounge	41 De Lacey Ave.	(Type 47, On-Sale) General for Bona-fide Public Eating
4	True Food Kitchen	168 Colorado Blvd.	(Type 47, On-Sale) General for Bona-fide Public Eating

The project is located in the Old Pasadena sub-district of the Central District Specific Plan, which was created 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 complimentary uses. Although the number of alcohol establishments (as defined by ABC) in the census tract exceeds the number allowed, it is not expected that the expansion of an existing instructional painting studio with an active alcohol license would become a problematic use. Therefore, its anticipated that the project would not contribute negatively to the existing number of alcoholic establishments in the Census Tract.

Proximity to Sensitive Uses

The proposed use is located within a mixed-use building that houses both residences and commercial uses; therefore, the proposed use would be in close proximity to residences. There are multifamily residential structures located across Green Street to the north, as well as to the south of the project site. The Hrock Church and Maranatha High School are located to the west of the project site, across the 710 Freeway, approximately 800 feet away. Central Park is located approximately 850 feet to the southeast of the project site and Friendship Baptist Church is located 600 feet to the southeast of the project site. While residential uses exist nearby, the existing business with alcohol sales has not been detrimental to the surrounding neighborhood since it originally opened. In the past year, there have not been any calls for service for alcohol related incidents or a documented complaint history related to the existing business. The presence of a commercial business with alcohol sales within the City’s commercial and entertainment corridor is also common. Through this request, its anticipated that the business would function the same as it has where patrons can paint and consume alcohol. The on-site sale and consumption of limited alcohol will continue to be ancillary to the existing primary Personal Improvement Services use. In addition, no live entertainment or dancing is proposed with the operation of the instructional paint studio.

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 expansion of an existing use for the

onsite sale and consumption of limited alcohol in conjunction with the instructional painting studio will not detrimentally affect the surrounding area.

Hours of Operation:

The existing hours of operation are Monday through Sunday, from 10:00 AM to 11:00 PM. The subject site is situated within the Central District Specific Plan and therefore is not subject to the limited hours of operation as prescribed in Section 17.40.070 (Limited Hours of Operation) of the Zoning Code. Therefore, the existing hours of operation are consistent with other existing Personal Improvement Services use in the Central District area.

Off-Street Parking Requirements

The required off-street parking for a Personal Improvement Services use is three spaces for every 1,000 square feet of gross floor area. The site is located within CD-1-AD-1 (Central District Specific Plan, Old Pasadena subdistrict), where the required number of parking spaces for nonresidential uses is reduced by 25 percent.

The previous use for Suite 107 consisted of an Animal Sales and Service use, which requires 2.5 spaces for every 1,000 square feet of gross floor area. After applying the applicable parking ratio and the nonresidential reduction of 25 percent to the 1,131 square-foot tenant space, the prior use required two parking spaces. When applying the applicable parking ratio and nonresidential reduction to the proposed use, two parking spaces are required. Therefore, the proposed expansion of the business into suite 107 would not intensify the applicable parking ratios and no additional parking is required. Therefore, the existing condition complies with parking requirements.

ENVIRONMENTAL:

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; therefore, there are no unusual circumstances. Section 15301 specifically exempts the operation, permitting, licensing or minor alteration of existing structures where there is negligible or no expansion of the existing or former use. The proposed business expansion into the adjacent tenant space and additional alcohol sales area is considered a negligible expansion to an existing commercial structure; therefore, the proposed modifications are exempt from environmental review.

GENERAL PLAN CONSISTENCY:

The proposed Modification to Conditional Use Permit #6538 is consistent with the General Plan Land Use Element – Goal 11, Policy 11.1, Business Expansion and Growth. The proposed project would support the continuation of an existing business as it is in harmony with its surroundings and provides growth and success of businesses that create new job opportunities for Pasadena residents. The proposed expansion to allow the on-site sale and consumption of limited alcohol in conjunction with the operation of a Personal Improvement Services use is also consistent with General Plan Land Use Element – Policy 12.1, Vital Commercial Districts. The proposed use encourages diversity of shopping and dining opportunities enabling Pasadena's residents to acquire desired services within the vital commercial districts.

REVIEW BY OTHER CITY DEPARTMENTS:

The Building and Safety Section, Design and Historic Preservation Section, and Departments of Transportation, Water and Power (Water Division), Housing, Public Works, and Police were given the opportunity to review the proposal. No new comments were received.

CONCLUSION:

It is staff's assessment that the findings necessary to modify Conditional Use Permit #6538 to expand the area of alcohol sales in conjunction with an existing Personal Improvement Services use can be made. The proposed expansion would comply with the requirements of the state Alcoholic Beverage Control license. Conditions of approval would ensure that the use would not deviate from the planned operation reviewed under this and the original application. Therefore, staff recommends that the Hearing Officer approve the application with findings in Attachment A and the Conditions of Approval in Attachment B.

Attachments:

Attachment A: Specific Findings of Approval for Modification to Conditional Use Permit

Attachment B: Conditions of Approval for Modification to Conditional Use Permit

ATTACHMENT A
SPECIFIC FINDINGS FOR MODIFICATION OF CONDITIONAL USE PERMIT #6538

Modification to Conditional Use Permit #6538: To allow the expansion of limited alcohol (beer and wine) in conjunction with the operation of a Personal Improvement Services use (Pinot's Palette).

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 existing on-site sale and consumption of limited alcohol (beer and wine) in conjunction with the operation of an existing Personal Improvement Services use is consistent with surrounding uses. The subject site is located within the CD-1-AD-1 (Central District Specific Plan, Old Pasadena sub-district, Alcohol Overlay) zoning district, where a Personal Improvement Services use is allowed by right. The on-site sale and consumption of limited alcohol is subject to the review and approval of this Conditional Use Permit. The expansion of the alcohol sales area will be in accordance with all City laws, ordinances and conditions of approval to ensure the use continues to remain compatible with the surrounding area. No off-site consumption, live entertainment, or dancing are proposed.

2. *The 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.* The project is located in the CD-1-AD-1 zoning district. This area is supported by the development of complementary uses to continue its long-term viability as a regional retail and entertainment attraction. Though, the ABC considers there to be an overconcentration of licenses in the census tract, the request will not add a new license to the area, but rather expand an existing license that was previously allowed for the site. In addition, the majority of the existing alcohol serving establishments nearby are restaurant uses. Unlike nightclubs or bars, the expansion of alcohol sales for an existing Personal Improvement Service use is not expected to be a problematic use. The existing business has not had any calls for service specific to alcohol in the past year, and the existing use and hours of operation have not created a negative impact to the area. Therefore, the project will not contribute negatively to the undue concentration of alcoholic establishments in the Census Tract.

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 project site is developed with a mixed-use building that houses both residences and commercial uses; therefore, the use will be in close proximity to residences. There are multifamily residential structures located across Green Street to the north, as well as to the south of the project site. The Hrock Church and Maranatha High School are located to the west of the project site, across the 710 Freeway, approximately 800 feet away. Central Park is located approximately 850 feet to the southeast of the project site and Friendship Baptist Church is located 600 feet to the southeast of the project site. There are no hospitals nearby. While residential uses exist nearby, the existing business with alcohol sales has not been detrimental to the surrounding neighborhood since it originally opened. In the past year, there have not been any calls for service for alcohol related incidents or a documented complaint history related to the existing business. The presence of a commercial business with alcohol sales within the City's commercial and entertainment corridor is also common. Through this request, its anticipated that the business would function the same as it has,

except with additional studio space where patrons can paint and consume alcohol. The on-site sale and consumption of limited alcohol will continue to be ancillary to the existing primary Personal Improvement Services use. In addition, no live entertainment or dancing is proposed with the operation of the instructional paint studio.

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 on-site sales and consumption of limited alcohol has occurred on-site since the 2017 with no reoccurring history of complaints. There is a not documented history of problems created by the sale of alcohol at this location. The approval to expand the area of alcohol sales for the existing business is not expected to change the existing conditions. The Police Department reviewed the proposal and did not express concerns. 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 proposal is consistent with the General Plan Land Use Element – Goal 11, Policy 11.1, Business Expansion and Growth. The proposed project would support the continuation of an existing business as it is in harmony with its surroundings and provides growth and success of businesses that create new job opportunities for Pasadena residents. The proposal is also consistent with General Plan Land Use Element – Policy 12.1, Vital Commercial Districts. The proposed use encourages diversity of shopping and dining opportunities enabling Pasadena’s residents to acquire desired services within the vital commercial districts.

**ATTACHMENT B
CONDITIONS OF APPROVAL FOR
MODIFICATION TO CONDITIONAL USE PERMIT #6538**

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

General

1. The site plan, floor plan, elevations, and building sections submitted for building permits shall substantially conform to plans stamped "Approved at Hearing, March 20, 2024," 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 limited alcohol (beer and wine) in conjunction with the operation of a Personal Improvement Services use (Pinot's Palette).
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 proposed project, Activity Number **ZENT2023-00122** 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, Ivan Galeazzi at (626) 744-7124 to schedule an inspection appointment time.

Planning Division

8. Prior to serving alcohol, owner/operator must possess a valid on-sale alcoholic beverage license pursuant to Division 9, commencing with Section 23000, of the California Business and Professions Code of limited alcohol (Type 42 – On-Sale Beer and Wine – Public Premises). Alcohol service shall be in compliance with all applicable regulations and guidance issued by the California Department of Alcoholic Beverage Control at all times. The premises shall not obtain any other public premises type licenses without the approval of a Conditional Use Permit.
9. The primary use shall be Personal Improvement Services use (Pinot's Palette) with a 140 square-foot bar and ancillary limited alcohol (beer and wine) sales for on-site consumption only.

10. The on-site sale and consumption of alcohol shall be limited to customers registered for painting sessions only.
11. Customers are prohibited from bringing their own outside alcoholic beverages for on-site consumption at all times.
12. All alcohol sales shall cease one-half hour before close, or 1:30 a.m., whichever is earlier.
13. The off-site sale and/or consumption of alcohol is strictly prohibited at all times.
14. Alcoholic beverages shall not be served in disposable containers.
15. Customized lighting and sound system conducive of a nightclub atmosphere shall be prohibited at all times.
16. Amplification of music shall comply with the regulations of Chapter 9.36 of Pasadena Municipal Code.
17. The following preventive measures shall be undertaken to reduce the potential for alcohol related problems:
 - Food service shall remain available during all hours of operation.
 - Rideshare service phone numbers shall be posted in a conspicuous location at all times in the area(s) where alcohol is served to customers.
 - 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.
 - The availability of a variety of non-alcoholic beverages shall be made known, posted in a conspicuous location, and offered to customers. The operator shall provide a Designated Driver program and offer free non-alcoholic drinks to designated drivers.
18. These conditions of approval must be posted in a conspicuous location for public viewing on a continuous basis for the life of this Conditional Use Permit beginning on the date the alcohol sales commence.
19. The establishment shall allow patrons of all ages, at all times.
20. Events sponsored and/or operated by a third party who profit from organizing and/or drawing large attendees to the third party sponsored events shall be prohibited at all times.
21. The reproduction of sound which is audible outside of the premise that will materially and adversely impact adjacent tenants shall not be permitted.
22. All doors and windows shall remain closed when amplified music occurs.
23. Loitering outside the premise is prohibited at all times.
24. Signs advertising brands and types of alcohol shall not be visible from the exterior of the premises. The display of alcoholic beverages shall be interior only (no outdoor display) at all times.

25. The Director may, in his or her sole discretion, place additional conditions upon the issuance of the permit in order to insure the protection of the rights of all adjoining property owners and the health, safety and welfare of the public.
26. 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.
27. 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.
28. Compliance with Pasadena Municipal Code Chapter 8.78 (Tobacco Use Prevention Ordinance) shall be adhered to at all times.

Police Department

29. The applicant is not permitted to have live music or a DJ (Disc Jockey) at the project site.
30. No dance floor is permitted to be installed with this request and no dancing shall occur.

Public Works Department

31. This application does not permit sidewalk dining in the public right-of-way. If the applicant intends to serve any food or beverages in the public right-of-way, an application shall be filed with the Department of Public Works for a sidewalk dining occupancy permit to establish or maintaining a sidewalk dining area within the public-right-of-way. Sidewalk dining shall comply with all the requirements of Chapter 12,13, entitled "Sidewalk Dining on Public Walkways", of the Pasadena Municipal Code.