



**City of South Pasadena
Planning and Community
Development Department**

Memo

Date: July 13, 2021

To: Chair and Members of the Planning Commission

From: Joanna Hankamer, Planning & Community Development Director

Re: Additional Document #4 for Item No. 3: 521-523 Mission Street (Brewhouse) –
Public Comments and Additional Correspondence

The following public comment and additional correspondence was received today after noon:

Additional Correspondence in Support

One letter was received in support of the proposal.

The Applicant has provided two documents for consideration.

Applicant Requested Revisions to Conditions of Approval
Responses to Comments

Joanna Hankamer

From: Laurie Wheeler <laurie@southpasadena.net>
Sent: Tuesday, July 13, 2021 2:34 PM
To: PlanningComments
Subject: Planning Commission Agenda Item 3, 7/13/2021

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Hello members of the Planning Commission,

Thank you for your consideration of the project located 521-523 Mission Street, South Pasadena Brewhouse. This project was introduced to the Economic Development Committee by the owner and architects in March, 2021, where it was met with enthusiasm and support; as this is just the type of business seems “made” for South Pasadena.

The owners and their team have created a project that meets the current code requirements for the project site and Mission Street Specific district, the historic nature of the residence will not be altered, the owners have worked very hard to provide analyses of the potential impacts of this project and taken care to provide mitigating elements that will address these.

This project is well thought-out, and will attract local residents as well those from neighboring cities to Eat-Shop-Enjoy South Pasadena. Continuing to activate commercial spaces in the city will have direct economic impact with sales tax revenue. We urge you to support this project. Thank you for your consideration.

Warm Regards,

Laurie

Laurie Wheeler
President/CEO
South Pasadena Chamber of Commerce
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South Pasadena, CA 91030

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To: Planning Commission

From: Applicant Steve Martin

Date: 7/12/2021

Re: Applicant Requested Revisions to Conditions of Approval

- P-11. It is unclear why 2 employees are required all the time. It is such a small place that one person could be present.
- P-12. The language is based on City staff's incorrect interpretation of a limit on microbreweries from the Zoning code. It does not make sense and it should be deleted. (See included memo.)
- P-16. It will be impossible to comply with a restriction requiring sitting in a chair and not standing. So, this means anytime anyone gets up, there is a violation. If someone walks over to talk to their friend who just got there and is locking up their bike, there is a violation. If someone is walking through the entrance way or going to the restroom, there is a violation. This kind of restriction should not be imposed. We should just limit the available seating, which will reasonably keep the number of people well below the limits that would cause an impact. The noise study showed there would be no noise impact from 32 people being present. So, 16 chairs should reasonably limit the use of the patio.
- P-17. The language is based on City staff's incorrect interpretation of a limit on microbreweries from the Zoning code. It does not make sense and it should be deleted. (See included memo.)
- P-19. CUP is for alcohol not live/work, which is permitted by right. The CUP should not fix the residential square footage, only the alcohol sale area, which is already stated in P-20.
- P-21. The limit on production capacity and sales are too limiting, and other similar businesses are not limited this way. It should either be deleted or increased to allow for reasonable growth (e.g., a 5BBL capacity, and 1300 BBL annual production limit).
- P-22. The language is based on City staff's incorrect interpretation restricting the fundamental purpose of a microbrewery—sale for off-site consumption. (See included memo.)
- P-31. "Increasing 2 CNEL above 67 dBA CNEL" should be deleted, because it does not have any relation to project noise in the future. If noise is above 67 dBA CNEL, it would likely be caused by something entirely different than the Project since it is just a 24-hr ambient measurement.

Excerpt of Revisions to Conditions of Approval
(On next page)

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driveway or access to the ADA restrooms. No alcohol beverages shall be allowed in any restroom.

- P-11. ~~A minimum of two employees shall be on site at all times while alcohol is being served.~~
- P-12. ~~Alcohol served by the business is limited to beer produced at the microbrewery on-site.~~ Such alcohol can only be served and consumed in the interior seating areas and outdoor seating area. Other areas of the property and street right-of-way shall be off-limits for consumption of alcohol. Such consumption condition does not apply to residents of the residential portion of the property within the residential portion of the property.
- P-13. All employees who will engaged in the sale of alcohol must complete the State Alcoholic Beverage Control's mandated training (LEAD), as well as the store's internal training on the sale of alcohol.
- P-14. Any individuals discovered loitering on the property shall immediately be informed to leave the premises, by the owner. Should the owner fail to abate the problems, the South Pasadena Police Department and/or other enforcement agencies reserve the right to take appropriate enforcement actions to abate the problem, and the permit/alcohol license may be subject to revocation.
- P-15. Interior occupancy capacity shall be determined pursuant to the California Building Code at time of Certificate of Occupancy, but shall not exceed 45 seats as indicated on the plans approved by the Planning Commission. Signage indicating the total occupancy capacity shall be placed at all exits of the interior space.
- P-16. Outdoor seating is limited is limited to a maximum of 16 seats as indicated on the plans approved by the Planning Commission. ~~Customers utilizing the outdoor seating area must have a chair. Standing room only shall not be allowed in the outdoor seating area.~~
- P-17. ~~The only alcohol that can be sold on the premises is beer that is produced on premises.~~
- P-18. The structure located at the rear of the property denoted as "Brewhouse" on the plans shall be limited to employee access with the exception of employee guided tours.
- P-19. ~~This approval allows for a Live/Work arrangement where the residential use is 858 square feet, includes two bedrooms and is located at the rear of the structure. The commercial use is allowed to be 808 square feet and located at the front of the structure.~~
- P-20. The approved brewhouse is 808 square feet at the front of the primary structure and the outdoor seating area located in the front setback of the property. Any expansion of the brewhouse shall require review by the City of South Pasadena and amendment of this Conditional Use Permit.
- P-21. ~~Based on the size of the brewing equipment proposed and approved, the brewhouse is limited to a maximum of 260 barrels annually. Any expansion of the brewing equipment in the brewhouse beyond the three barrel capacity shall require review by the City of South Pasadena and amendment of this Conditional Use Permit.~~

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- P-22. ~~The approved use shall comply with the definition of "microbrewery" in section 36.700.020 of the South Pasadena Municipal Code, as presently stated as "A facility where beer brewed on the premises is sold for on-site consumption".~~
- P-23. Approval of this use permit is conditioned on the installation and maintenance of all walls, landscape, and hardscape as indicated on the approved plans.
- P-24. Approval of this use permit is conditioned on the location of all tables and chairs in interior and exterior spaces as indicated on the approved plans being maintained at all times while the premises are open for business. ADA and fire safety paths of travel shall be maintained at all times.
- P-25. The Applicant shall comply with all City of South Pasadena Business License requirements and shall provide a list of all contractors and subcontractors that are subject to business license requirements.
- P-26. Noncompliance with the conditions, failure to comply with the Municipal Code, including operating the subject use in a manner deemed to be a public nuisance, and/or failure to comply with other local, state, or federal regulations applicable to the subject project may result in the revocation of or modification to the Conditional Use Permit in accordance with Section 36.640.070 of the South Pasadena Municipal Code.
- P-27. Any modification or intensification of the approved use, including, but not limited to, any increase of square footage of the interior area, revisions to the hours of operations, improvements including building construction, and/or other modifications beyond what is specifically permitted by this Conditional Use Permit shall require review and approval by the Community Development Director. The Community Development Director may determine that said modifications or intensifications of the use require a modification to the Conditional Use Permit.
- P-28. The applicant shall submit plans for review and approval of the 8-foot wall on the westerly property line to the Building Division to obtain a building permit prior to construction.
- P-29. A surveillance monitoring system shall be installed to monitor the entrances and exits to prevent robbery and loitering. The system shall be maintained in a manner that would prevent any accidental/false activation. Training for the proper use of the alarm system shall be provided to all employees of the business to eliminate any accidental activation. This system would assist law enforcement in identifying subjects possibly involved in criminal activity on the premises.
- P-30. Bike racks shall be installed in the outdoor seating area as on the plans approved by the Planning Commission.
- P-31. This Conditional Use Permit may be periodically monitored to ensure that it is being operated in a manner consistent with City regulations and these Conditions of Approval and that the use is being operated in a manner which is not detrimental to the public health, safety or welfare. If issues such as, but not limited to, parking, noise levels ~~increasing 2 CNEL above 67 dBA CNEL (MSSP p. 105)~~, alcohol-related crime, security,

nuisances, etc. or other operational characteristics become an issue in the future, the Planning Commission reserves the right to modify the operational standards and hours of operation.

BUILDING DIVISION:

- B1. The second sheet of building plans is to list all conditions of approval and to include a copy of the Planning Commission Decision letter. This information shall be incorporated into the plans prior to the first submittal for plan check.
- B2. Fees shall be paid to the County of Los Angeles Sanitation District prior to issuance of the building permit.
- B3. Park Impact Fee to be paid at the time of permit issuance.
- B4. Per Chapter 16A of the City of South Pasadena Municipal Code, Growth fee to be paid at the time of permit issuance.
- B5. An application to re-assign addresses shall be filed as required by Public Works Department prior to plan check submittal.
- B6. In accordance with paragraph 5538(b) of the California Business and Professions Code, plans are to be prepared and stamped by a licensed architect.
- B7. When a detached building or a nonresidential addition is proposed, a grading/drainage plan shall be provided and be approved prior to issuance of the building permit. The grading/drainage plan shall demonstrate whether a separate grading permit with plan review is required per Appendix J of the Los Angeles County Building Code.
- B8. Shall a grading permit be required; the owner shall retain the soils engineer preparing the Preliminary Soils and/or Geotechnical Investigation accepted by the City for observation of all grading, site preparation, and compaction testing. Observation and testing shall not be performed by another soils and/or geotechnical engineer unless the subsequent soils and/or geotechnical engineer submits and has accepted by Building Division, a new Preliminary Soils and/or Geotechnical Investigation.
- B9. Shall a grading permit be required; the PDF copy of the soils report shall be provided by the applicant at the time of plan submittal.
- B10. Stormwater Planning Program LID Plan Checklist (MS4-1 Form) completed by Engineer of Record shall be copied on the first sheet of Grading Plans. The form can be found at the following link
<https://www.dropbox.com/s/5p4yf08beipzyot/SP%20MS4-1%20LID%20Determination%20Form.pdf?dl=0>
- B11. State of California disability access regulations for accessibility as applicable shall be complied with.
- B12. Approval is required from the Los Angeles County Health Department for food handling

To: Planning Commission

From: Applicant Steve Martin

Date: 7/12/2021

Re: City Staff's Overreaching Restrictions on "Microbrewery" Must be Rejected

The Zoning Code defines "microbrewery" as "a facility where beer brewed on the premises is sold for on-site consumption." (Section 36.700.020.) City staff mistakenly thinks this definition limits microbreweries to: (1) only selling beer produced on the premises; and (2) only selling it for on-site consumption. That interpretation is incorrect and leads to an absurd result, and it must be rejected by the Planning Commission to allow off-site sales and allow selling beer produced from off-premises.

First, the "microbrewery" definition is really inconsequential to this Project, because other provisions in the Zoning Code allow for the requested off-site sales. Specifically, I am seeking a CUP to sell alcoholic beverages for both on- and off-premise consumption, as allowed under Zoning Code section 36.350.040, and this is part of my application to manufacture and sell beer as a Cottage Industry in District B of the MSSP. "Alcoholic beverage sales" is defined in the Zoning Code, as "the retail sale of beer... for on- or off-premise consumption." (Section 36.700.020.) The Type 23 Alcohol and Beverage Control (ABC) license for this type of establishment allows selling beer this way. Therefore, the requested on- and off-site use for alcoholic beverage sales is allowed, and these provisions, alone, support it.

In addition to the above-noted provisions, City staff's interpretation of the "microbrewery" definition is incorrect. The definition does not contain any confining or limiting language that City staff ascribes to it. The absence of such an express limitation should be perceived as intentional silence by the drafters to not impose those requirements. The definition only states that microbreweries involve both making beer and selling it for on-site consumption. This does not mean that is the only thing the facility can do and that it is, therefore, prohibited from selling other breweries' beer or selling beer for off-site consumption.

Such an interpretation will have a profoundly negative impact on the economy. No restaurant in town will be able to purchase and sell local beer. Local restaurants are eager to do this. It will be a huge loss for our local economy, and it will likely destroy the ability for microbreweries to exist in the City. Also, since City staff imputes that only "beer brewed on the premises" may be sold, then the interpretation could be extended to mean that absolutely nothing else can be sold (not just beer from somewhere else).

The definition does not say any such limitation. But, it is the natural extension of Staff's misguided interpretation. Applying this to other definitions in the same way will have serious negative ramifications. For example, "restaurants," only says they are a "retail business selling ready-to-eat food," which staff would likely interpret as prohibiting making the food or selling wine with the food because it only says they "sell ready-to-eat food." This an absurd interpretation that would potentially muddle the plain meaning of every definition from schools to theatres.

Also, in the Zoning Code definitions, "microbrewery" specifically refers to "on-site" consumption, where "on-site" is itself defined as an "accessory use that is related to a specific primary use." And, "accessory use" is then further defined as a "use... clearly subordinate to the principal use... which does not alter the principal use..." Based on these explicit definitions, the "consumption" use (being "onsite") is a subordinate use that "does not alter" the primary "brewing/sale" use of the microbrewery. Thus, it cannot limit that primary sale use when the defined terms are interpreted in conjunction.

Just how every restaurant "makes" food, every microbrewery in California sells for "off-site" consumption through kegs, small containers, bottles, or cans. It is a fundamental part of what microbreweries do. The national association for the brewing industry defines "microbrewery" as selling 75% or more of its beer through off-site sales. (<https://www.brewersassociation.org/statistics-and-data/craft-beer-industry-market-segments/>) So, the brewing and off-site sales are undeniably the primary use, and under the City's definitions, that use is not altered by the secondary on-site consumption use. Based on this, the City's microbrewery definition allows for primary off-site sales notwithstanding the subordinate on-site consumption use.

I respectfully request that the Planning Commission reject staff's restriction on selling beer from other breweries and reject staff's restriction on selling beer for off-site consumption by deleting Conditions of Approval P-17, P-22, and the first sentence of P-11 as shown in my proposed amendments to the Conditions of Approval.

Definitions From Zoning Code (SPMC 36.700.020)

Alcoholic Beverage Sales. The retail sale of beer, wine, and/or other alcoholic beverages for on- or off-premise consumption.

Microbrewery. A facility where beer brewed on the premises is sold for on-site consumption.

On-site. An activity or accessory use that is related to a specific primary use, that is located on the same site as the primary use.

Accessory Use. A use customarily incidental to, related and clearly subordinate to a principal use established on the same parcel (or, in the case of a commercial use, in the space occupied by a particular land use), which does not alter the principal use nor serve property other than the parcel where the principal use is located. "Secondary use" has the same meaning.

Restaurant. A retail business selling ready-to-eat food for on- or off-premise consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on- or off-premise consumption, and establishments where most customers are served food at tables for on-premise consumption, but may include providing food for take-out. Also includes coffee houses.

To: Planning Commission

From: Applicant Steve Martin

Date: 7/12/2021

Re: Responses to Comments

Main Responses to Comments for Commission Review:

- Conflict of Interest: Line-Jumping: The applicant elected to pay for a consultant to process the project, which is available to every applicant. Most people do not elect to do so because it costs a lot of money compared to waiting for a staff review.
- Conflict of Interest: Project: My wife has entirely recused herself from having anything to do with my project. She has never spoken to the consultant handling the project, and does not speak to anyone at the City about it.
- Conflict of Interest: Director's Interpretation: The director's interpretation was prepared for the Seven Patios Project, not this Project, and was provided to the Commission and Council. My wife is not the director. My wife informed the City about her ownership of property in District B when it was purchased. My wife's work on the Seven Patios project was done under the Community Development Director and City Manager's direction and advice from the City Attorney.
- Cottage Industry: As explained in the Applicant's July 5 Report, this Project fits the "Cottage Industry" definition regardless of the Director's Interpretation.
- Timing Informing Neighbor: Applicant spoke to the adjacent residential neighbors to get their input 2 days after speaking to City for the first time about the project. The project application was filed Feb. 22, 2021. No project existed before that, and the project is not related to the Jan 2020 Director's Interpretation.
- Residential Location: As shown in the Applicant's July 5 Report, the property is commercial (as are the neighbors) and the surrounding property is a major commercial corridor on Mission Street, designated truck route, and has major bus routes.
- Bar: Not a bar. It is a microbrewery that produces beer and a small tasting room, and microbreweries are generally family-friendly.
- Age and Drunk: craft beer drinkers are primarily middle-aged folks with high education, high income, and refined tastes that seek beers with unique taste. They are not generally young people trying to get drunk, as claimed. The project will comply with licensing and training requirements imposed by regulating entities.
- Delivery Trucks: The site currently has a high delivery volume, and the projects deliveries would generally not be different, adding maybe one or two extra deliveries

for the business, and local delivery of beer product would be handled by the owner, no different than the current use.

- Parking: See the parking study.
- Noise: See the noise study.
- Nighttime activity: I suggest a robust discussion about what are the reasonable hour restrictions (indoor and outdoor use). The proposal was 10 p.m. initially, but I am open to discuss anything.
- Alcohol Nearby: Trader Joe's (large section of liquor, wine, beer); Cos & Pi (serves liquor, wine, beer about 400 feet closer to the school than the Project).
- Other Areas: The cost of renting space on Fair Oaks or east Mission makes operating this type of small, quiet, relaxed tasting room environment infeasible. A brewery with such high rent would need to be enormous, have enormous production, and bring in enormous crowds which would significantly impact the surrounding neighborhood. It would be extremely impactful compared to this operation that is intended to be very small with low impact. It's not the kind of project I would want.
- Food Trucks: No food trucks are anticipated. It is speculative.
- Smoking: Is illegal in the City and it is speculative to presume it will occur.
- Loitering: Standard Conditions require loitering control at the Project.

Additional and More Detailed Responses to Comments

- GENERAL RESPONSE RE AGE AND INCOME: The median craft brewery patron is a 39 year old, male, white, high education, relatively high income, and geographically concentrated. (Brewers Association, Demographics of Craft Beer Lovers (2014) <https://www.brewersassociation.org/wp-content/uploads/2014/10/Demographics-of-craft-beer.pdf>.) So, is not really only young people in their 20s that go to breweries and, as claimed by commenters, party. That is not the microbrewery demographic and I suspect the commenters have never been to a brewery. It is primarily older middle-aged folks with high education, high income, and refined tastes that are seek beers with unique flavor with the primary focus on experiencing a new taste of beer. The demographic is not seeking to get drunk. They are seeking to explore different types of beers, and they are paying a premium for locally made product—so it would behoove anyone to go to microbreweries for the purpose of getting drunk.
- GENERAL RESPONSE “DELIVERY TRUCKS.” Delivery trucks are anticipated to be no more frequent than existing conditions. Currently there are 6 adult occupant residents, 2 dogs, and 2-3 regular caregivers and nurses that regularly come and go from the property over the course of the week to assist with one of the elderly occupants that needs 24-hour assistance due to medical needs. Deliveries are received usually daily from an assortment of delivery services, and delivery is the main source of all occupants obtaining personal, professional, and medical supplies. The property also receives large truck shipments, generally every other month or so, for bulk food or large item deliveries. For the operation of the brewery, it is anticipated that deliveries will not be any greater than the currently existing high level of deliveries that the property receives. Into the foreseeable future, it is estimated that the production of beer would involve one production run of 5BBL every week from the Brewhouse, and each batch would use roughly 403 lbs of “grain bill” for the biggest beers the Brewhouse would produce. That would equate to about eight 50 to 55 lb bags of grain. So over the course of a month (roughly 4 weeks), the Brewhouse would need about 32 bags delivered. That is not much. It is a really small nanobrewery. The Brewhouse anticipates that the most pragmatic scenario would be to arrange for delivery once a month (at most, and maybe even every other month) to save on delivery costs to obtain the bulk of the brewery’s basic grain needs. In brewing, much of the grain bill consists of just a couple different types of “base” malt. So obtaining one, single delivery every couple of months of the base malts would be sufficient, and any specialty malts that are needed could be delivered, instead, by regular FedEx or UPS-type delivery services that are no different than the existing deliveries. All other small ingredients, such as hops and yeast would be delivered by regular overnight UPS and FedEx-type services. So they would be no different than the existing deliveries at the site that regularly occur on a daily or every-other-day basis. Even if production was increased to 5 times this, it would still only require one or two grain deliveries a month, which is not an impact. Shipments of product off-site would not be any different than current use of the property. The owner would likely just use his truck or car to drive product to the local establishments, which creates no impact.