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CALIFORNIA



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May 3, 2000

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CASE NO. ZA 99-0708(CUB)(CUX)  
CONDITIONAL USE  
5917 Franklin Avenue  
Hollywood Planning Area  
Zone : C1-1D  
D. M. : 150A191  
C. D. : 4  
CEQA : MND 99-0364-CUB  
Fish and Game: Exempt  
Legal Description: Lots 1 and 2,  
Hollywood Pineapple Tract No. 2

Department of Building and Safety

Pursuant to Los Angeles Municipal Code Sections 12.24-C.42, I hereby APPROVE:

a conditional use to permit the expanded hours of operation for the sale and dispensing of alcoholic beverages for on-site consumption and the addition of live entertainment, and outdoor dining in a public right-of-way for eight seats, in conjunction with an existing restaurant,

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective conditions, if, in the Administrator's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.

4. All graffiti on the site shall be removed or painted over in the same color as the surface to which it is applied within 24 hours of its occurrence.
5. The hours of operation shall be from 11 a.m. to Midnight Sunday through Thursday, 11 a.m. to 1 a.m. Friday and Saturday.
6. This grant shall be valid for a period of five years from the effective date and shall become null and void thereafter.
7. This grant shall be valid only so long as a bonafide restaurant is maintained as the principal use of the lease area and the sale and dispensing for consideration of alcoholic beverages for consumption with meals is conducted as an incidental use of such restaurant. At all times that the premises is open for business the sale of alcoholic beverages shall be incidental to and in conjunction with the sale of food.
8. This approval is for the on-site sale of alcoholic beverages and no sale for off-site consumption shall be permitted on the premises.
9. As volunteered by the applicant, there shall be no dancing permitted in the restaurant. There shall be no designated dance floor in the restaurant.
10. The restaurant shall have no bar or cocktail lounge on the premises.
11. There shall be no pay telephone maintained on the exterior of the premises.
12. Any live entertainment shall be subject to the following limitations:
  - a. There shall be no amplified music permitted on the premises;
  - b. Any live entertainment and or recorded music shall not be audible beyond the walls of the restaurant building. Under no circumstances shall there be either live or recorded music permitted on the outdoor patio area.
  - c. Any live entertainment shall be limited to the hours between 7 p.m. and 10 p.m. Thursday through Sunday, and 7 p.m. until 11 p.m. Friday and Saturday.
  - d. Live entertainment shall be limited to one entertainer.
13. There shall be no coin operated games or video machines maintained on the premises.
14. All employee parking shall be provided off site. Prior to the issuance of any permits, the applicant shall demonstrate to the satisfaction of the Zoning Administrator that adequate off-site parking exists, and that off-site employee parking has been secured.

15. A valid contract shall be maintained with a valet service providing for a minimum of 20 off-site parking spaces. Said contract shall remain in force for the entire duration of this grant.
16. The applicant shall maintain the existing revocable permit from the Board of Public Works for outdoor patio use that occurs in the public right of way and provide evidence of said permit to the Zoning Administrator. Tables, chairs, planter boxes or stanchions shall not obstruct pedestrians walking on Franklin Avenue and shall maintain a minimum clear pedestrian walking path of no less than 5 feet.
17. A maximum of eight outdoor patio seats are permitted in the public right-of-way pursuant to the existing revocable permit issued by the Board of Public Works but only if the outdoor tables and chairs do not obstruct pedestrian traffic. In the event eight seats obstruct pedestrian traffic only a lesser number of outdoor seats are permitted. An outdoor seating plan shall be submitted to the Zoning Administrator within 30 days of the effective date of this grant.
18. As volunteered by the applicant, there shall be no sale or service of alcoholic beverages in the outdoor patio area without accompanying meal service.
19. No sooner than 180 days and no later than 12 months from the commencement of the utilization of this grant, the applicant shall file for a plan approval in order to determine the effectiveness of these conditions. Any such application shall be accompanied by a mailing list of owners with 500 feet and the appropriate filing fee.
20. All of the rules and regulations of the State of California Department of Alcoholic Beverage Control shall be observed in the sale and dispensing of alcoholic beverages on the premises.
21. A copy of these conditions shall be maintained on the premises at all times. The management and employees of the restaurant shall be familiarized with these conditions. The conditions shall be available for inspection by any LAPD officer or any ABC official upon demand.
22. As volunteered by the Applicant:
  - a. Valet service shall be made available to customers of the subject facility during the hours the facility is open for business.
  - b. The patio on Franklin Avenue shall measure no more than 10 X 17 and shall be defined by stanchions, planter boxes or another barrier at least 4 feet in height.
  - c. Sales and service of alcoholic beverages shall be made from behind the counter where an employee will serve the product, no self service of alcoholic beverages will be permitted.

- d. There shall be no exterior advertising of any kind, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.
  - e. Containers of distilled spirits may not be stored on the premises after being sold to patrons for the purpose of later consumption, nor shall distilled spirits be sold by the full bottle.
  - f. Waitresses and service hostesses shall not be permitted to sit with customers and patrons of the restaurant and/or solicit the sales, service and consumption of alcoholic beverages.
  - g. There shall be no "Happy Hour" or other time when alcoholic beverages are offered at reduced or discounted prices permitted on the premises at any time.
  - h. The gross sales of alcoholic beverages shall not exceed the gross sales of food items on a quarterly basis. The applicant shall at all times maintain records which reflect separately the quarterly gross sales of food and alcoholic beverages for the premises. Said records shall be made available to the police upon demand.
23. The applicant shall surrender or assure the inactivity of the existing beer and wine license to the ABC concurrently with the issuance of any new license for the premises.
24. A copy of the first page of this grant and all conditions and/or any subsequent appeal of this grant and its resultant conditions and/or letters of clarification shall be included in the "notes" portion of the building plans submitted to the Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
25. Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms conditions established herein shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

**OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES - TIME EXTENSION**

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within two years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and

carried on diligently to completion, the authorization shall terminate and become void. A Zoning Administrator may extend the termination date for one additional period not to exceed one year, if a written request on appropriate forms, accompanied by the applicable fee is filed therefore with a public Office of the Department of City Planning setting forth the reasons for said request and a Zoning Administrator determines that good and reasonable cause exists therefore.

### **TRANSFERABILITY**

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions of this grant.

### **VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR**

Section 12.24-J,3 of the Los Angeles Municipal Code provides:

"It shall be unlawful to violate or fail to comply with any requirement or condition imposed by final action of the Zoning Administrator, Board or Council pursuant to this subsection. Such violation or failure to comply shall constitute a violation of this Chapter and shall be subject to the same penalties as any other violation of this Chapter."

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

### **APPEAL PERIOD - EFFECTIVE DATE**

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these conditions the same as for any violation of the requirements contained in the Municipal Code. THE ZONING ADMINISTRATOR'S DETERMINATION IN THIS MATTER WILL BECOME EFFECTIVE AFTER MAY 18, 2000, UNLESS AN APPEAL THEREFROM IS FILED WITH THE CITY PLANNING DEPARTMENT. IT IS STRONGLY ADVISED THAT APPEALS BE FILED EARLY DURING THE APPEAL PERIOD AND IN PERSON SO THAT IMPERFECTIONS/ INCOMPLETENESS MAY BE CORRECTED BEFORE THE APPEAL PERIOD EXPIRES. ANY APPEAL MUST BE FILED ON THE PRESCRIBED FORMS, ACCOMPANIED BY THE REQUIRED FEE, A COPY OF THE ZONING ADMINISTRATOR'S ACTION, AND RECEIVED AND RECEIPTED AT A PUBLIC OFFICE OF THE DEPARTMENT OF CITY PLANNING ON OR BEFORE THE ABOVE DATE OR THE APPEAL WILL NOT BE ACCEPTED. SUCH OFFICES ARE LOCATED AT:

Figueroa Plaza  
201 North Figueroa Street, #300

6251 Van Nuys Boulevard  
First Floor

Los Angeles, CA 90012  
(213) 977-6083

Van Nuys, CA 91401  
(818) 756-8596

PLEASE BE ADVISED THAT THE APPELLATE DECISION MAKER(S) WILL CHANGE AS THE RESULT OF IMPLEMENTATION OF THE NEW CITY CHARTER, WHICH BECOMES EFFECTIVE JULY 1, 2000. UNTIL THAT DATE, ALL APPLICATION AND APPEAL PROCEDURES REMAIN THE SAME. AFTER THAT DATE, ALL DECISION MAKING AUTHORITY ON APPEALS WILL CHANGE AND APPLICATIONS IN PROCESS AT THAT TIME MAY BE AFFECTED. ANY APPEAL FILED PRIOR TO JULY 1 SHALL BE PROVIDED A RIGHT OF APPEAL, BUT NOT NECESSARILY TO THE APPELLATE BODY WHICH WOULD HAVE JURISDICTION PRIOR TO JULY 1, 2000. ANY APPLICATION AND/OR APPEAL FILED AFTER JULY 1, 2000 SHALL CONFORM TO ALL OF THE NEW PROCEDURES AND REGULATIONS IN EFFECT AS OF JULY 1, 2000.

#### NOTICE

THE APPLICANT IS FURTHER ADVISED THAT ALL SUBSEQUENT CONTACT WITH THIS OFFICE REGARDING THIS DETERMINATION MUST BE WITH THE ZONING ADMINISTRATOR WHO ACTED ON THE CASE. THIS WOULD INCLUDE CLARIFICATION, VERIFICATION OF CONDITION COMPLIANCE AND PLANS OR BUILDING PERMIT APPLICATIONS, ETC., AND SHALL BE ACCOMPLISHED BY APPOINTMENT ONLY, IN ORDER TO ASSURE THAT YOU RECEIVE SERVICE WITH A MINIMUM AMOUNT OF WAITING. YOU SHOULD ADVISE ANY CONSULTANT REPRESENTING YOU OF THIS REQUIREMENT AS WELL.

#### FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the report of the Zoning Analyst thereon, and the statements made at the public hearing before the Zoning Administrator on February 3, 2000, all of which are by reference made a part hereof, as well as knowledge of the property and the surrounding district, I find that the requirements for authorizing a conditional use permit under the provisions of Section 12.24-C of the Municipal Code have been established by the following facts:

#### BACKGROUND

The subject property is a level, rectangular-shaped, reverse corner record lot consisting of approximately 23,800 square feet, having a frontage of approximately 158 feet on the north side of Franklin Avenue and an approximate depth of 90 feet.

Surrounding properties are within the C1, R3 and RD1.5 Zones and are characterized by level topography and fully improved streets. The surrounding properties are developed with apartments and commercial buildings.

North of the subject property, the improvements fronting on Tamarind Avenue are all in the RD1.5-1XL Zone and are improved with two single-family residences, a group of condominiums and a 120-unit apartment house.

South of the subject property across Bronson Avenue is the Church of Scientology which operates a hotel under holdings which extends for one square block and contains a restaurant serving alcoholic beverages on the property.

There are a number of improvements in the C1-1D Zone properties fronting on Franklin and Bronson Avenues at the intersection of these two streets which include restaurants, a pharmacy, a laundry, a video shop, a bookstore and a florist with a total of three restaurants serving alcoholic beverages.

To the west of the overall subject property, the zoning is R3-1 on the northerly side of Franklin and the first development facing on Tamarind Avenue is a 50-unit apartment house.

Franklin Avenue, is a designated Major Highway with widths from 80 feet to 83 feet. All improvements have been made in the area adjacent to the subject property including trees, street lights, curves, gutters and sidewalks in addition to street paving.

Tamarind Avenue, is a Local Street, on the west end of the block which has a 70-foot wide in dedication and is completely improved.

Previous zoning related actions on the site/in the area include:

**Subject Property:**

Case No. ZA 978-0450(CUB) - Approved September 10, 1997 to permit the sale of alcoholic beverages for on-site consumption at the subject restaurant (Cafe Pierrot) accommodating 28 persons between the hours of 11:30 a.m. and 12 midnight daily.

Case No. ZAI 82-058-E - On April 7, 1982, the Zoning Administrator determined that the sale of alcoholic beverages for on-site consumption of the restaurant located at 5917 Franklin Avenue is exempt from the requirements of Sections 12.21 and 12.24 of the LAMC.

**Surrounding Properties:**

Case No. ZA 95-0117(CUB) - Approved March 27, 1996 for a conditional use permit, the sale and dispensing of beer and wine for on-site consumption in conjunction with an expanding restaurant from a total of 564 square feet to 1,466 square feet for an expansion of the Birds Chicken mentioned above. This restaurant is located at 5923 Franklin Avenue.

Case No. ZA 93-0920(ZV) - On February 10, 1994, the Zoning Administrator approved a zone variance at 5930 Franklin Avenue to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant located within an existing hotel on a site in the R3 Zone as not permitted under Section 12.10-A of the LAMC.

Case No. ZAI 81-169B - approved July 15, 1981 for the reestablishment of a license for the sale of alcoholic beverages for consumption on the premises at 5925 Franklin Avenue. The establishment was originally licensed by the Department of Alcoholic Beverages Control in 1945 as a type 40 license which was later upgraded to a type 41 license and in February 1981 the type 41 license was surrendered and was operated as a chicken establishment until in July 1981, the decision was made to reapply for the license and having a maximum of 40 seats was granted under an exemption.

At the public hearing the applicant and his representative and one opposing neighbor were the only persons present. The applicant's representative explained that the restaurant is a small, Japanese/French style eating establishment located in a small shopping center. The building was built in the early 1920's and has no parking since none was required at that time. There will be no change anticipated in the mode and character of operation for the restaurant except for the addition of longer hours of operation and outdoor dining for eight seats on Franklin Avenue. If this facility were a stand-alone enterprise, it would be permitted as an "exception" since it has under 50 seats. The impact will be the same as if it were an exception case. The restaurant should not create an overall parking problem for the neighborhood which is largely multiple-residential and the customer base from the area is expected to arrive on foot. For those who do not, a valet parking service will be available. The applicant's representative also withdrew the request for dancing and presented a copy of an existing Revocable Permit for outside dining on the sidewalk. Live entertainment was proposed for one person.

The Council Office in a phone call opposed any noise increase due to amplified entertainment and opposed the maximum increase in hours requested. The Police Department in a letter indicated no problems with existing alcohol sales or live entertainment.

### **BASIS FOR CONDITIONAL USE PERMITS**

A particular type of development is subject to the conditional use process because it has been determined that such use of property should not be permitted by right in a particular zone. All uses requiring a conditional use permit from the Zoning Administrator are located within Section 12.24-C of the Los Angeles Municipal Code. In order for a particular request to be authorized, certain designated findings have to be made. In certain cases, specific conditional use categories have additional or unique findings only applicable to that specific use beyond the four standard findings for other conditional use categories.

### **FINDINGS**

In order for a conditional use permit for the on-site sale and dispensing of alcoholic beverages and live entertainment to be approved the mandated findings delineated in Municipal Code Section 12.24-C must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts to same:



1. **The proposed location will be desirable to the public convenience or welfare.**

The subject restaurant, Cafe Pierrot, serves Japanese French style cuisine in a portion of an existing building that houses several businesses. There is no parking on the site since the building was originally constructed when there was no such requirement. This area between Tamarind Avenue and Canyon Drive is one where there is a substantial retail area that attracts persons due to the variety of neighborhood services provided. These include a market, a dry cleaners, a florist, a book store and several restaurants. The subject restaurant has been in keeping with the neighborhood commercial character of the immediate vicinity along Franklin Avenue. In this regard, it has been desirable to the public convenience and welfare providing a local eating establishment for those in the neighborhood not unlike several that already exist for this purpose. Alcoholic beverages are already approved and the applicant only requests longer hours and outdoor seating which are reasonable minor expansions of the original 1997 Cty grant for the restaurant.

The area is surrounded primarily by apartments and a hotel which may yield a customer base for the restaurant which is providing a desirable service to the community and catering to a customer base that may walk to the restaurant rather than drive, thereby negating the need for a large amount of parking. Adequate parking has been provided through a valet service adding to the desirability and convenience of the location.

2. **The location is proper in relation to adjacent uses or the development of the community.**

Franklin Avenue is a designated Major Highway developed with commercial uses including restaurants which are frequently located on major streets such as this. Several other restaurants already exist in the vicinity as do other commercial uses which serve the local community. The area, is developed in this manner providing a locale where the surrounding neighborhood may come to shop and dine. The subject Japanese/French restaurant has added to this mix and has blended well with the existing character of development in the neighborhood. This location is proper in relation to adjacent uses which consist of neighborhood commercial uses and residential uses that utilize these services. The proposed restaurant expansion of hours and outdoor dining will compliment these uses

3. **The use will not be materially detrimental to the character of the development in the immediate neighborhood.**

The subject facility is small, having only 1,310 square feet and seating 28 patrons. Much of the dining traffic by local residents arriving on foot. For those who drive to the restaurant off-street valet parking has been provided. The size of the facility and the ability of the owner to provide parking will deter the facility from becoming a detriment to the character of the development in the immediate area. Rather, it will add to the mix and the ambience of the community. There

are several other restaurants in the subject building where alcohol is already being served without benefit of any on-site parking accommodation. In January, 2000, a similar request was granted for a restaurant at 5923 Franklin Avenue. The applicant is seeking to be on par with other businesses as far as general hours and outdoor dining. Most of the same conditions from the nearby January grant are imposed on this request. The expansion of the restaurant is, therefore, unlikely to become a detriment to the immediate surroundings or to the larger neighborhood, and will be subject to generally similar conditions of ZA 99-0647(CUB) for 5923 Franklin Avenue. Restricted live entertainment, without amplification, is allowed similar to the 5923 Franklin Avenue approval for consistency.

4. **The proposed location will be in harmony with the various elements and objectives of the General Plan.**

The Hollywood Community Plan designates the subject property for Limited Commercial uses with corresponding zones of CR, C1, C1.5, and P. The subject property is zoned C1 and restaurants are a permitted use in this zone. The addition of the sale of alcoholic beverages to the restaurant and limited live entertainment will have no effect on the conformance of the use with the General Plan as the main use will be a permitted restaurant.

5. **The proposed restaurant will not result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages in the area. The proposed restaurant will not detrimentally affect the nearby residentially zoned area or the economic welfare of the area.**

According to the State Department of Alcoholic Beverage Control (ABC) licensing criteria, 5 on-site and 4 off-site licenses are allocated to the subject Census Tract No. 1895. There are currently 7 on-site and 4 off-site licenses in this census tract. This request would not change the existing number of alcohol licenses for the area. Alcohol sales were previously granted for this restaurant in 1997.

Statistics from the Police Department reveal that in the subject Crime Reporting District No. 629, a total of 279 crimes were reported in 1998 compared to a citywide average of 404 crimes and the high Crime Reporting District average of 331 crimes for the same period. This is one of the lowest crime reports in Los Angeles on a citywide basis. There has been no police opposition to this subject request and no report of problems with the operation of the restaurant.

Within 1,000 feet of the site there is a Church of Scientology and the Cheremoya Avenue School. Between 600 and 1,000 feet from the site there is one small restaurant serving alcoholic beverages and one small grocery store which also sells alcohol. The surrounding area is developed with a mixture of multiple residential buildings and commercial and office and service uses. The expansion of hours of one small restaurant to this mix, especially one that does

not have a bar or lounge and one that is limited to the sale of alcoholic beverages with meals is not likely to prove detrimental to the surrounding community or its economic welfare.

#### ADDITIONAL MANDATORY FINDINGS

6. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 154,405, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding.
7. On September 22, 1999, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Mitigated Negative Declaration No. MND 99-0364-CUB (Article V - City CEQA Guidelines) and determined that by imposing conditions the impacts could be reduced to a level of insignificance. I hereby certify that action. The records upon which this decision is based are with the Environmental Review Section in Room 1500, 221 North Figueroa Street.
8. Fish and Game: The subject project, which is located in Los Angeles County, will not have an impact on fish or wildlife resources or habitat upon which fish and wildlife depend, as defined by California Fish and Game Code Section 711.2.

*Jon Perica*

JON PERICA  
Associate Zoning Administrator  
Direct Telephone No. (213) 580-5491

JP:lmc

cc: Councilmember John Ferraro  
Fourth District  
Adjoining Property Owners  
County Assessor