



May 2, 2018

James Bygrave
5570 Figueroa St.
Los Angeles, CA 90042

**RE: 933 SOUTH BRAND BOULEVARD
ADMINISTRATIVE USE PERMIT NO. PAUP 1725399
(MAXWELLS' RESTAURANT)**

Dear Mr. Bygrave:

Pursuant to the provisions of the Glendale Municipal Code, Title 30, Chapter 30.49, the Community Development Department has processed your application for an Administrative Use Permit (AUP) to allow the on-site sales, service, and consumption of a full line of alcoholic beverages, and the sale of wine and beer for off-site consumption, at a new full-service restaurant in the "CA" -Commercial Auto Zone, located at **933 South Brand Boulevard**, City of Glendale, County of Los Angeles.

CODE REQUIRES

- (1) Alcoholic beverage sales require an Administrative Use Permit in the "CA" - Commercial Auto Zone.

APPLICANT'S PROPOSAL

- (1) To allow the on-site sales, service, and consumption of alcoholic beverages and the sale of wine and beer for off-site consumption (ABC Type 47 license) at a new full-service restaurant.

ENVIRONMENTAL RECOMMENDATION

The project is exempt from CEQA review pursuant to State CEQA Guidelines Section 15301, Class 1 - Existing Facilities, because the discretionary permit request is to allow the on-site sales, service and consumption of alcohol with the sale of wine and beer for off-site consumption at a new restaurant in an existing building.

REQUIRED/MANDATED FINDINGS

After thorough consideration of the statements contained in the application, the plans submitted therewith, and the analysis by Community Development Department staff, this Administrative Use Permit application is **APPROVED WITH CONDITIONS** based on the following:

A. That the proposed use will be consistent with the various elements and objectives of the general plan.

The proposed use will be consistent with the General Plan's nine (9) Elements (sections): Land Use, Housing, Circulation, Historic Preservation, Open Space and Conservation, Recreation, Noise, Safety and Air Quality.

- Land Use – The project site is located within the Commercial Auto (CA) Zone. The purpose of the zone is to provide for a district that promotes the maintenance and expansion of vehicle dealers while still providing for alternate complementary commercial uses in conformance with the goals of the comprehensive general plan. The area is designed to be an attractive, pedestrian-friendly urban auto row with a mix of commercial uses and to provide visual interest on all sides of buildings for the benefit of residential and commercial uses and people living and visiting in the area. A full-service restaurant and wine bar selling alcohol is appropriate in this zone as it provides a complementary commercial use to the automobile uses surrounding it; therefore, it is consistent with the desired land use for this district.
- Housing – The project does not include any housing units, nor does it affect density.
- Circulation – The Circulation Element designates Brand Boulevard as a “Major Arterial” and Acacia Avenue as an “Urban Collector.” The predominant use and character of frontage property specified in the plan for Brand Boulevard includes regional commercial, automobile retail and light industrial; for Acacia Avenue it includes low- and moderate- density residential. A full-service restaurant and wine bar selling alcohol is an appropriate use for these street types.
- Historic Preservation – The building (929-933 South Brand) associated with the project site is listed on the California Register of Historical Resources and is recognized as having a Gothic Revival influenced Art Deco style. The project scope does not include any alterations to the exterior face of the building.
- Open Space and Conservation –The project site is not located within or adjacent to any open space or natural resource.
- Recreation – The site is not identified for recreational use in the Recreation Element.
- Noise – The project site is located on two streets recommended by the Noise Element not to exceed a noise level of 70 CNEL (Community Noise Equivalent Level, a weighted average sound level over a 24-hour period with 60 CNEL being appropriate for residential neighborhoods). Draft Conditions #17 and 19-22 of this permit application address potential noise impacts to the community from this project.
- Safety – The Safety Element calls for ongoing management of local crime by the Police Department. The Police Department reviewed this project and reported it will be located in census tract 3024.01, where the suggested limit by ABC for on-sale alcohol establishments is five. Currently, there are ten on-sale establishment licenses located in this tract, and the applicant's request would be the eleventh. Based on arrests and Part 1 (violent and property) crime statistics in year 2017 for this census tract, there were 501

crimes, which is 258% above the citywide average of 194; however, it is important to note that while this census tract has a higher crime rate than average, it is not necessarily related to the 900 block of South Brand but the areas nearby. According to the Police Department, the south end of the City is very busy for them, especially in and around the Vons shopping center at Los Feliz Boulevard and Central Avenue which is within this census tract. The Police Department has suggested conditions of approval that have been included in the staff recommendation to ensure there are no negative impacts to the public health, safety, and general welfare.

- Air Quality – The project (“on-site sales, service, and consumption of alcohol with the sale of wine and beer for off-site consumption”) is not a source of or contributor to air pollution; however, Condition #30 requires the project to comply with the City’s Fresh Air Ordinance.

B. That the use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment.

The sales, service and consumption of alcohol at a full-service restaurant and bar and the sale of wine and beer for off-site consumption is not anticipated to be detrimental to the community or adversely conflict with the community’s normal development. The project has been reviewed by the Police Department and the Neighborhood Services, Building & Safety and Planning Divisions within the Community Development Department to identify potential negative impacts of the project on the public health, safety, general welfare or environment. As more fully described in Finding A, the project has been found to be consistent with and appropriate to the adjacent land uses and not a likely source of harmful environmental, noise or safety impacts to the community. The conditions include measures to help prevent any such potential impacts on the community from this project. Given these facts, the use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment.

C. That the use and facilities will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property.

The sales, service and consumption of alcohol at the restaurant will not conflict with the adjacent land uses because the conditions will mitigate or prevent negative impacts to the neighborhood from the use and because the use is ancillary to the primary restaurant use. Further, the proposed project will not impede the normal development of surrounding property because it is a complementary use to surrounding development. The project site is located within the Commercial Auto (CA) Zone of the General Plan Land Use Element. The CA Zone is a commercial district supporting vehicle dealers and providing for complementary commercial uses. A full service restaurant and wine bar serving alcohol is appropriate in this area and will provide a dining and drinking amenity to commercial and residential occupants in the area; therefore it is consistent with the desired land use for this district. Within walking distance (1/4 mile) to the site, there are two schools (Theodore Roosevelt Middle School and Horace Mann Elementary School), one church (Armenian Church of the Nazarene), two parks (Palmer Park and Maryland Park), and multi-family residential development running north-south at the midpoints between Glendale Avenue, Brand Boulevard, Central Avenue and the main thoroughfares extending east and west beyond. While these facilities and uses are within close proximity to the project site, the conditions will mitigate or prevent negative impacts to the neighborhood from the use. For example, Conditions #9-10 require alcohol sales to be a subordinate use to food service, and thus result in alcohol sales being ancillary to the primary

restaurant use. Less negative impacts are generally anticipated with this type of use compared to a use characterized as predominantly selling alcohol. The suggested conditions of approval made by the Police Department have been incorporated into the staff recommendation to ensure any potential negative impacts will be appropriately mitigated. Therefore, the project is not anticipated to be detrimental to the community or adversely conflict with the community's normal development.

D. That adequate public and private facilities such as utilities, landscaping, parking spaces and traffic circulation measures are or will be provided for the proposed use.

This application does not include any new floor area or proposed modifications to the existing site, which was developed as a commercial site and has been utilized by commercial uses for decades. The subject building relies on the 35-space adjacent parking lot and this parking arrangement predates the City's parking requirements; therefore, the number of parking spaces was granted legal nonconforming status in the 1991-approved Standards Variance (No. 8869-S) with the condition that the parking is maintained as presented in the plans submitted with the Standards Variance. A recent site visit revealed the parking lot striping has fallen into disrepair and does not accurately reflect the conditions as presented in said plans. Condition #1 in this report requires the parking to be restriped to comply with the prior approved parking layout design, and Condition #2 requires that the parking be legally tied to the commercial building. Adequate utilities and traffic circulation measures are already provided. As identified in the Circulation Element, both Brand Boulevard and Acacia Avenue are fully developed "Major Arterial" and "Urban Collector" streets, respectively, and can adequately handle the existing traffic circulation adjacent to the site.

REQUIRED ADDITIONAL FINDINGS OF FACT FOR AN AUP FOR ALCOHOL SALES, SERVICE AND CONSUMPTION

That the following criteria set forth in Glendale Municipal Code Section 30.49.030 (E) be considered in making the findings in subsection A through D above.

- 1) **That where an existing or proposed on-site use is located in a census tract with more than the recommended maximum concentration of on-site uses or that where an existing or proposed off-site use is located in a census tract with more than the recommended maximum concentration of off-site uses, both as recommended by the California Department of Alcoholic Beverage Control, such use does not or will not tend to intensify or otherwise contribute to the adverse impacts on the surrounding area caused by such over concentration.** As noted in the "Safety" section of Finding A above, the on-site uses in the census tract exceed the recommended maximum concentration; however, the conditions will mitigate or prevent the intensification of adverse impacts to the surrounding area caused by such over concentration. For example, Conditions #9, 10 and 13 require alcohol sales to be a subordinate use to food service, and thus will result in alcohol sales being ancillary to the primary restaurant use. Less negative impacts are generally anticipated with this type of use compared to a use characterized as predominantly selling alcohol. Additional recommended Conditions address the mitigation or prevention of noise, loitering, crime, parking congestion, advertising of alcohol service, and untidy premises. Those

conditions will contribute to minimizing any intensification of adverse impacts to the surrounding area which may be caused by overconcentration of on-site alcohol sales, service and consumption (the sale of beer and wine for off-site consumption is subordinate to the on-site use; thus, for this and further analysis in this report “on-site” refers to the proposed use).

- 2) **That where the existing or proposed use is located in a crime reporting district with a crime rate which exceeds 20 percent of the city average for Part 1 crimes, as reported by the Glendale Police Department, such use does not or will not tend to encourage or intensify crime within the district.** As noted in the “Safety” section of Finding A, the crime rate in the subject census tract is 258% above the city average for Part 1 crime statistics in year 2017; however, the high crime rate in this census tract is not necessarily related to the 900 block of South Brand but rather the areas nearby. No evidence has been presented that would indicate that the on-site sales, service and consumption of alcohol at a new full-service restaurant at the subject site would encourage or intensify crime within the district. Further, the project site previously operated as a full-service restaurant and wine retail store so the proposed use is not an intensification compared to the previous use. Suggested conditions of approval from the Police Department have been incorporated into the staff recommendation to ensure any potential negative impacts will be appropriately mitigated. Condition #17 specifically requires the restaurant to enforce sufficient measures to effectively eliminate criminal activities.
- 3) **That the existing or proposed use does not or will not adversely impact any church, public or private school or college, day care facility, public park, library, hospital or residential use within the surrounding area.** As more fully detailed in Finding C above, several church, school, park and residential uses are within walking distance (1/4 mile) to the site. While these facilities and uses are within close proximity to the project site, the suggested conditions of approval made by the Police Department have been incorporated into the staff recommendation to ensure any potential negative impacts will be appropriately mitigated.
- 4) **That adequate parking and loading facilities are or will be provided for the existing or proposed use, or other reasonable alternatives satisfy the transportation and parking needs of the existing or proposed use.** The site is fully developed with no proposed changes and adequate parking and loading facilities are currently provided under the entitlement still in effect (1991-approved Standards Variance Case No. 8869-S). Condition #1 calls for the parking lot striping to be brought into compliance with the existing parking entitlement, while Condition #2 requires that the building and parking be legally tied. Further, the service of alcohol at a new full-service restaurant is not anticipated to intensify traffic circulation or parking demand because it is a continuation of the same use that has been at this site for years.
- 5) **That, notwithstanding consideration of the criteria in subsections 1 through 4 above, the existing or proposed use does or will serve a public necessity or public convenience purpose for the area.** The applicant’s request to allow the on-site sales, service and consumption of alcohol at an existing full-service restaurant does serve a public convenience because it serves local residents, businesses, and the surrounding community. Conditions placed on the approval of the project will ensure it will not adversely impact nearby businesses and residential uses.

CONDITIONS OF APPROVAL

APPROVAL of this Administrative Use Permit shall be subject to the following conditions:

1. That the subject site's parking lot spaces shall be restriped to conform to the site plan approved as part of Conditional Use Permit PCUP 2007-014 and Variance PVAR 2007-026.
2. That prior to issuance of a Business Registration Certificate, the applicant shall provide evidence of the recordation of a Parking Covenant, to the satisfaction of the Planning Hearing Officer and City Attorney, which ties the parking site to the building parcel (Assessor parcel numbers 5641-017-019 and 5641-017-022). In lieu of a parking covenant, a lot line adjustment (lot merger) may be obtained.
3. That the project site shall comply with the State Accessibility Standards for parking and building entrance accessibility, as required by the Building and Safety Division.
4. That the development shall be in substantial accord with the plans submitted with the application, except for any modifications as may be required to meet specific code standards or other conditions stipulated herein to the satisfaction of the Director of Community Development.
5. That all necessary licenses, approvals and permits as required from Federal, State, County or City authorities including the City Clerk shall be obtained and kept current at all times.
6. That all necessary permits (i.e., building, fire, engineering, etc.) shall be obtained from the Building and Safety Division and all construction shall be in compliance with the Glendale Building Code and all other applicable regulations.
7. That additional building code requirements and/or specific code requirements (i.e. CA Green Building Code, etc.) will be required upon submittal of plans for building plan check and permits.
8. That a Business Registration Certificate for 933 South Brand shall be applied for and issued for a full-service restaurant and bar with on-site sales, service and consumption of alcohol, and the sale of wine and beer for off-site consumption, subject to the findings and conditions outlined in this decision letter.
9. That the premises shall maintain a bona fide restaurant and shall provide a menu containing an assortment of foods normally offered in such restaurant. Food service shall be available at all times and in all areas of the premises during normal operating hours. At no time shall the project area be solely and exclusively used to serve alcohol; the restaurant and bar areas must operate together as one operation and the restaurant must always be open when the bar is open.

10. That the establishment shall not operate as a tavern. An establishment that primarily provides for the on-premises sale, serving and consumption of alcoholic beverages and that derives more than fifty (50) percent of gross revenues from the sale of alcoholic beverages is by definition of the code a "tavern" and requires approval of a separate Conditional Use Permit. Taverns include bars, pubs, cocktail lounges and similar establishments.
11. That the establishment shall not operate as a nightclub and shall not have a dance floor area greater than 200 square feet. Any establishment serving alcoholic beverages which has a dance floor of greater than 200 square feet is considered a nightclub and will require a separate Conditional Use Permit. Dancing is only allowed on the premises in a designated dance floor area less than 200 square feet, with a proper "Dance" permit.
12. That the establishment shall not operate as a banquet hall. According to the definition of a "Restaurant, full service", the restaurant may not have greater than thirty (30) percent of the serving area available for private party rental where access by the general public is restricted; the "restaurant, full service" is not a banquet hall. The premises may only be utilized for banquets, private parties, or other events, provided that all events comply with the provisions of the applicant's Alcoholic Beverage Control license, and provided the applicant has appropriate Conditional Use Permits and Use Variances, if required.
13. That sales, service or consumption of alcoholic beverages shall be permitted only between the hours of 6am to 2am seven days per week, and only when the restaurant is also open for service.
14. That no exterior signs advertising the service of alcohol shall be permitted.
15. That the service of alcohol shall be in full accord with the regulations and conditions established by the State Department of Alcoholic Beverage Control.
16. That no patrons of the restaurant shall be allowed to bring into the establishment any alcoholic beverages that were purchased from outside of the establishment, unless the facility has an established corkage policy allowing and regulating such.
17. That sufficient measures shall be enforced to effectively eliminate interior and exterior loitering, parking congestion, disturbing noise, disturbing light, loud conversation, and criminal activities. These measures shall particularly be addressed to the loading dock, parking lot, and south and west portions of the subject site and shall include directing business operations and customer activity that occur in the morning to the front of the building until 10am.
18. That live entertainment is permitted with the exception that no karaoke, no bikini activities or events, no lingerie activities or events, no swimwear activities or events, nor any similar activities or events are allowed where partial clothing of male or female entertainment is provided. A Live Entertainment permit must be obtained in accordance with G.M.C 5.60.
19. That entertainment shall be limited to incidental recorded background music; a pianist or string quartet, or small jazz band (up to five musicians) may be utilized provided that all noise will be confined to the interior of the building.

20. That the business shall comply with the state and local laws and ordinances concerning excessive noise and disturbing the peace.
21. That no speakers shall be utilized in the parking lot or on the loading dock.
22. That the proprietor and his/her employees shall make an active and conscientious effort to keep customers and employees from trespassing on other nearby properties or otherwise making disturbances in the area.
23. That the parking area shall be kept adequately illuminated for security purposes during all hours of darkness. Lighting fixtures shall be installed and maintained in the parking area in those areas where street lights do not effectively illuminate the premises. No lighting shall be installed or maintained which shines or reflects onto adjacent properties.
24. That the premises shall be maintained in a clean and orderly condition, free of weeds, trash, and graffiti.
25. That adequate means shall be provided for the collection of solid waste generated at the site and all recyclable items shall be collected and properly disposed of to the satisfaction of the Integrated Waste Administrator of the City of Glendale. No trash containers shall be stored in any parking, driveway, or landscaping area.
26. That all signs displayed shall conform to the requirements of the Glendale Municipal Code.
27. That the restaurant shall remain open to the public during business hours. If the establishment has a private party during normal business hours, the restaurant still needs to remain open for business to regular customers.
28. That the front and back doors to the restaurant shall be kept closed at all times to prevent noise impacts to the surrounding neighbors, except for reasonable access and egress of staff and patrons in the day-to-day operation of the business and in case of emergency.
29. That there shall be no video machine(s) maintained on the premises.
30. That the restaurant shall adhere to the City's Fresh Air Ordinance, Title 15, Chapter 8.52 of the Glendale Municipal Code.
31. That access to the premises shall be made available to all City of Glendale Planning and Neighborhood Services Division, Police Department, and Fire Department staff upon request for the purpose of verifying compliance with all laws and conditions of this approval.
32. That any expansion or modification of the facility or use which intensifies the existing business shall require a new Administrative Use Permit application. Expansion shall constitute adding floor area, increased hours of operation, changes to the use or operation, or any physical change as determined by the Director of Community Development.

33. That the authorization granted herein shall be valid for a period of **FIVE (5) YEARS UNTIL MAY 2, 2023.**

APPEAL PERIOD

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 City and public agency.

Under the provisions of the Glendale Municipal Code, Title 30, Chapter 30.62, any person affected by the above decision has the right to appeal said decision to the City Council if it is believed that the decision is in error or that procedural errors have occurred, or if there is substantial new evidence which could not have been reasonably presented. 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 within fifteen (15) days following the actual date of the decision. Information regarding appeals and appeal forms will be provided by the Permit Services Center (PSC) or the Community Development Department (CDD) upon request and must be filed with the prescribed fee prior to expiration of the 15-day period, on or before **May 17, 2018** at the PSC, 633 East Broadway, Room 101, Monday thru Friday 7:00 a.m. to 12:00 p.m., or at the CDD, 633 East Broadway, Room 103, Monday thru Friday 12:00 p.m. to 5 p.m.

APPEAL FORMS available on-line: <http://www.glendaleca.gov/appeals>

TRANSFERABILITY

This authorization runs with the land or the use for which it was intended for and approved. In the event the property is to be leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions and/or limitations of this grant.

VIOLATIONS OF THESE CONDITIONS

Violations of conditions required by this determination may constitute a misdemeanor or infraction under section 1.20.010 of the Glendale Municipal Code (GMC) and/or a violation of other local, State or Federal laws or regulations. Unless a specific penalty is provided, any person convicted of a misdemeanor shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), or imprisonment for a term not to exceed six (6) months, or by both fine and imprisonment. Infractions are punishable by a fine not exceeding the sum of five hundred dollars (\$500.00) for each violation. Violations of conditions required by this determination may be grounds for a revocation.

REVOCATION, CONTINUING JURISDICTION

Section 30.64.020 – Revocation – The Community Development Department shall have continuing jurisdiction over variances, administrative use permits, and conditional use permits (individual cases heard and decided upon by the Planning Hearing Officer).

To consider the revocation, the Planning Hearing Officer shall hold a public hearing after giving notice by the same procedure as for consideration of an administrative use permit at least ten (10) days' notice by mail to the applicant or permittee. Continuing jurisdiction over

any case is the purview of the Planning Hearing Officer, with concurrence by the Director of Community Development.

GMC CHAPTER 30.4 PROVIDES FOR

Termination

Every right or privilege authorized by an administrative use permit shall terminate two (2) years after the granting of such, unless the exercise of such right or privilege has commenced in good faith prior to such time, except as otherwise provided for.

Extension

An extension of the administrative use permit may be requested one time and extended for up to a maximum of one (1) additional year upon receipt of a written request from the applicant and demonstration that a reasonable effort to act on such right and privilege has commenced within the two (2) years of the approval date. In granting such extension the applicable review authority shall make a written finding that neighborhood conditions have not substantially changed since the granting of the administrative use permit.

Cessation

An Administrative Use Permit may be terminated by the review authority upon any interruption or cessation of the use permitted by the Administrative Use Permit for one year or more in the continuous exercise in good faith of such right and privilege.

NOTICE – subsequent contacts with this office

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the case planner. 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.

Should you have any questions regarding this issue, please do not hesitate to contact the case planner, Cassandra Pruett at (818) 937-8186 or cpruett@glendaleca.gov

Sincerely,
Philip Lanzafame
Director of Community Development



Bradley Collin
Planning Hearing Officer

BC:CP:sm

CC: City Clerk (K.Cruz); Police Dept. (S.Bickle/Z.Avila); City Attorney's Dept. (G. van Muyden/Y.Neukian); Fire Prevention Engineering Section-(J.Halpert); Traffic &

Transportation Section (P.Casanova); General Manager for Glendale Water and Power (S.Zurn); Glendale Water & Power--Water Section (G. Tom/S. Boghosian/R.Takidin); Glendale Water & Power--Electric Section (B. Alshanti/B.Ortiz/E.Olsen); Parks, Recreation and Community Services Dept. (T. Aleksanian); Neighborhood Services Division (R.Sada/J.Jouharian/); Integrated Waste Management Admin. (D. Hartwell); Maintenance Services Section Admin. (D. Hardgrove/J.Cawn); Street and Field Services Admin.; Engineering and Environmental Management (C.Chew/R. Villaluna); and case planner – Cassandra Pruett.