

APPROVAL NO. 2024-_____

RECORD OF THE COUNCIL OF THE CITY OF PALO ALTO LAND USE APPROVAL FOR 310 CALIFORNIA AVENUE: CONDITIONAL USE PERMIT (23PLN-00304)

At its meeting on June 10, 2024, the City Council of the City of Palo Alto (“City Council”) approved the Conditional Use Permit (CUP) application to allow for the expansion of an existing commercial recreation use. In approving the application, the Council make the following findings, determinations, and declarations:

SECTION 1. Background.

- A. On November 9, 2023, Ko Architects, on behalf of Nina Nguyen and Mirco Hirst, filed an application for a Conditional Use Permit (CUP) to allow for the expansion of an existing commercial recreation use at 310 California Avenue (Palo Alto Fit) into a portion of the adjacent tenant space at 320 California Avenue and for a 1,150 square foot (sf) addition within the existing building envelope (“The Project”).
- B. In accordance with 18.16.040, a CUP is required for any new commercial recreation use or expansion of an existing recreational use on California Avenue.
- C. In accordance with PAMC Section 18.40.170, given the level of public interest in the project, the Director sought input from the Planning and Transportation Commission and has referred the Director’s decision on the proposed project to Council.
- D. Following staff review, On April 10, 2024, the Planning and Transportation Commission held a duly noticed public hearing, at which evidence was presented and all persons were afforded an opportunity to be heard. The Commission recommended approval of the proposed project to City Council.
- E. On June 10, 2024, Council held a duly noticed public hearing, at which evidence was presented and all person were afforded the opportunity to be heard in accordance with the City Council’s policies and procedures.

SECTION 2. Environmental Review. The City, acting as the lead agency for the project, has determined that the project is exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15301 (Existing Facilities), which provides exemptions for existing facilities.

SECTION 3. Conditional Use Permit Findings

1. *The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience, in that:*

The project includes modifications within the envelope of an existing building to modify tenant spaces in order to allow for an increase in the total size of the existing commercial recreational use while replacing a portion of the existing retail and eating and drinking uses. Overall, the project results in negligible expansion of the retail-like uses on the site, adding a small additional area to the existing second floor for to accommodate back-of-house uses ancillary to the commercial recreation use. The project does not include any exterior work. Therefore, the project would not be detrimental towards the property or have a negative impact on the public's health and safety. The project will displace existing businesses, but the proposed gym and remaining café area will improve community health and well-being.

2. *The proposed use will be located and conducted in a manner in accord with the Palo Alto Comprehensive Plan and the purposes of this title in that:*

The proposed commercial recreational use is a conditionally permitted use on California Avenue. The project does not modify the existing building on its exterior and is consistent with all relevant development standards set forth in the zoning code for the Community Commercial zoning district and retail and pedestrian combining districts. The proposed use is allowed within the Regional/Community Commercial land use designation. This record of land use action approves the conditional use permit and includes conditions to ensure that the project will be conducted in a manner consistent with the code .

SECTION 4. Conditional Use Permit Granted. The proposed project, as conditioned, complies with the findings for a Conditional Use Permit as required in Chapter 18.76.010 of the PAMC. The project is subject to the conditions of approval in Section 5 of this Record.

SECTION 5. Conditions of Approval.

Planning Division

1. CONFORMANCE WITH PLANS: The use shall be conducted in substantial conformance with the project description letter submitted on March 22, 2024, and plans submitted on March 18, 2024, on file with the City of Palo Alto Planning & Development Services Division, except as modified by these conditions of approval.
2. BUILDING PERMIT: A copy of this approval letter shall be printed on any drawings submitted for building permit related to this use.

3. **BUILDING PERMIT PLAN SET:** A copy of this cover letter and conditions of approval shall be printed on the second page of the plans submitted for building permit. Project plans submitted for Building permits shall incorporate the following changes:
 - a. The building permit plan set shall change all references of “offices” to “staff offices”.
4. **USE AND OCCUPANCY PERMIT:** A valid Use and Occupancy permit is required.
5. **HOURS OF OPERATION:** The use is allowed to operate from 6:00 a.m. to 8:00 p.m. per the applicant Project Request Letter. All clean up or set up activities shall be conducted within these approved business hours.
6. **PARKING:** The tenant shall manage the use such that the parking demand of the use does not exceed the parking spaces allocated to the property through the Parking Assessment District and consistent with the project description.
7. **LITTERING:** The operator shall keep the subject property free of litter associated with the business operation.
8. **INTENSIFICATION OF USE:** Any intensification of use shall require an amendment to the conditional use permit and any other entitlements as specified in the Palo Alto Municipal Code.
9. **NOISE:** Noise levels emanating from the business shall not exceed the maximum level established in the PAMC Chapter 9.10, which is no more than eight (8) decibels above ambient.
10. **REVOCATION OF MODIFICATION OF APPROVAL:** The Director of Planning and Development Services may issue a notice of noncompliance for any failure to comply with any condition of this permit approval, or when a use is being conducted in a manner detrimental to the public health, safety, and welfare. The Director shall give notice to the permittee of intention to revoke such permit at least ten (10) days prior to a hearing thereon. Following such hearing and if good cause exists, the Director may revoke the Use Permit.
11. **FINAL INSPECTION.** A Planning Division Final inspection will be required to determine substantial compliance with the approved plans prior to the scheduling of a Building Division final. Any revisions during the building process must be approved by Planning, including but not limited to; materials, landscaping, and hard surface locations. Contact your Project Planner, Nishita Kandikuppa at nishita.kandikuppa@cityofpaloalto.org to schedule this inspection.
12. **INDEMNITY.** To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the “indemnified parties”) from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorneys’ fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

Public Works Division

13. The contractor shall coordinate items in logistics plan with all nearby construction projects Please note California Ave is closed to outdoor dining so logistics shall take this into account with proposal.
14. PUBLIC WORKS STANDARD CONDITIONS SHEET: The Department of Public Works full-sized "Standard Conditions" sheet shall be included in the improvement plans and the applicant shall comply with all conditions listed in the sheet. The sheet can be obtained from a staff member of Public Works Engineering Services or at the following link under Public Works Plan Review Documents: <https://www.cityofpaloalto.org/Departments/Public-Works/Engineering-Services/Forms-and-Permits>.
15. STORM WATER POLLUTION PREVENTION SHEET: The City's full-sized "Pollution Prevention - It's Part of the Plan" sheet shall be included in the improvement plans. The sheet can be obtained from a staff member of Public Works Engineering Services or at the following link under Public Works Plan Review Documents: <https://www.cityofpaloalto.org/Departments/Public-Works/Engineering-Services/Forms-and-Permits>.
16. DEMOLITION PLAN: The following note shall be placed adjacent to all affected trees on the Demolition Plan: Excavation and trenching is restricted within the Tree Protection Zone (refer to T-1 Tree Protection Sheet) or as approved by the Urban Forestry Division at 650-496-5953. Any changes shall be approved by the same.
17. CONSTRUCTION STAGING: All improvement plans shall include the following note on the Site Plan and the Grading & Drainage Plan. All construction materials and equipment shall be staged, stored, and stockpiled onsite and not on any public street.
18. LOGISTICS PLAN: The contractor may be required to submit a logistics plan to the Public Works Department prior to commencing work that addresses all impacts to the City's right-of-way, including, but not limited to: pedestrian control, traffic control, truck routes, material deliveries, contractor's parking, concrete pours, crane lifts, work hours, noise control, dust control, storm water pollution prevention, contractor's contact, noticing of affected businesses, and schedule of work: <https://www.cityofpaloalto.org/files/assets/public/v/3/public-works/engineering-services/webpages/forms-and-permits/logistics-plan-preparation-guidelines-2021.pdf>.

Zero Waste Division

19. Per Palo Alto Municipal Code 5.20.108 the site is required to have color-coded refuse containers, related color-coded millwork, and colored signage. The three refuse containers shall include recycle (blue container), compost (green container), and garbage (black container).

Applicant shall present on the plan the locations and quantity of both (any) internal and external refuse containers, its millwork, along with the signage. This requirement applies to any external or internal refuse containers located in common areas such as entrances, conference rooms, back of the house kitchen, café, dining area, and etc. except for restrooms, copy area, and mothers room. Millwork to store the color-coded refuse containers must have a minimum of four inches in height worth of color-coding, wrapping around the full width of the millwork.

20. Signage must be color coded with photos or illustrations of commonly discarded items.

21. If paper cups are used there shall be a green compost container and proper signage for the collection of paper cups.

22. Restrooms must have a green compost container for paper towels and an optional black landfill container if applicable. Copy area must have either a recycle bin only or all three refuse receptacles (green compost, blue recycle, and black landfill container).

SECTION 7. Term of Approval.

1. Conditional Use Permit. The project approval shall be valid for a period of one year from the original date of approval. In the event the use does not commence within the time limit specified above, the approval shall expire and be of no further force or effect. Additionally, A Use Permit that has not been used for a period of one (1) year or more shall become null and void (PAMC 18.77.100).

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

Assistant City Attorney

Mayor

Director of Planning and
Development Services

PLANS AND DRAWINGS REFERENCED:

Those plans prepared by Laura Roberts titled "310-320 California Avenue; Conditional Use Permit; Palo Alto Fit and Café", consisting of thirteen (13) pages, dated January 23, 2024, and revised March 18, 2024. A copy of these plans is on file with the Department of Planning and Development Services.