



City of Pomona

# PLANNING COMMISSION STAFF REPORT

DEVELOPMENT SERVICES | PLANNING DIVISION

November 13, 2024

<b>FILE NO:</b>	CONDITIONAL USE PERMIT – CUP-000584-2024 A request to allow for a live entertainment use and to obtain two California Department of Alcohol Beverage Control (ABC) licenses, a Type-41 (On-Sale Beer & Wine – Eating Place) and a Type-20 (Off-Sale Beer & Wine) at an existing café establishment.
<b>ADDRESS:</b>	101 W. Mission Blvd., Suite 106 (APN: 8341-008-040)
<b>APPLICANT:</b>	Andy Rosillo
<b>PROJECT PLANNER:</b>	Irene Mouré, Assistant Planner
<b>ENVIRONMENTAL REVIEW:</b>	This project is exempt for the California Environmental Quality Act (CEQA) pursuant to Section 15301. Existing Facilities of the 2024 California CEQA Statute and Guidelines.
<b>STAFF RECOMMENDATION:</b>	Approve File No(s). CUP-000584-2024 and adopt Draft Planning Commission Resolution No. 24-025 (Attachment 1)

## Project Information:

<b>GENERAL PLAN DISTRICT:</b>	Activity Center	<b>ZONING:</b>	Pomona Corridors Specific Plan (PCSP): Downtown Core Segment
<b>TRANSECT:</b>	T6-A	<b>OVERLAY(S):</b>	N/A
<b>GENERAL PLAN DENSITY:</b>	50 minimum DU/AC to over 100 du/acre maximum	<b>CURRENT LAND USES:</b>	Mixed-Use Development: General Commercial and Residential Condominium Units

## Project Summary:

The applicant, Andy Rosillo, is requesting to obtain two California Department of Alcohol Beverage Control (ABC) licenses, a Type-41 (On-Sale Beer & Wine – Eating Place) and a Type-20 (Off-Sale Beer & Wine) and to provide live entertainment at an existing café establishment and outdoor patio area. A Conditional Use Permit is required to approve requests for ABC licenses and live entertainment operations, including an art gallery and vocalists. The project does not intend to conduct any exterior work to the existing structure. Proposed work is limited to the interior with minor modifications, such as painting and an addition of a counter.

**Site History:**

General Location

The subject site consists of 3 parcels that are approximately 2 acres in area. It is developed with two principle, three-story building constructed in 2003. It is located at the intersection of West Mission Boulevard and South Garey Avenue.

The ground floor of each building consist of several general commercial uses ranging from restaurants, office space, and other retail and personal services outlets. The second and third floors of each building has a mix of general commercial uses and residential uses in the form of condominium units.

Adjacent Land Uses and Current Zoning Designations

The subject site is located within the DownTown Core Segment of the Pomona Corridors Specific Plan (PCSP). Properties to the north are within the Downtown Pomona Specific Plan Mixed Use – Central Business District; existing land uses include residential and commercial. To the south, properties are split between the MidTown Segment of the PCSP and the Neighborhood Edge District 5, existing land uses include residential. To the immediate east, properties are within the same MidTown Segment of the PCSP; existing land uses include residential and commercial. To the west, properties are all within the MidTown Segment of the PCSP; existing land uses include residential and commercial.

**Land Use History for Subject Property:**

Pomona business license and land use records indicate the site has operated as a café since 2023. CAVICE Café applied for a business license August 1, 2024. The establishment is currently in compliance with City Council Ordinance No. 4341, in which a Certificate of Occupancy is required from the Building and Safety Division to ensure the site has required approvals and permits.

The café establishment is surrounded by personal services, general office space, restaurants, and other general commercial uses on the ground floor. The second and third floors directly above and adjacent to the establishment are a mix of commercial uses and residential condominium units.

**Land Use and Design Permits:**

<u>Case File No.</u>	<u>Type</u>	<u>Status and Action</u>
FENCE-001509-2024	Legalize unpermitted fencing facing S. Garey Avenue.	<b>Opened</b> 10/14/2024 - In Process.

**Staff's Analysis:**

Proposed Operations

1. **Hours:** 5:00 AM to 11:00PM, daily
2. **Services:** Provide coffee, wine and beer pairings
3. **Alcohol:** Serve and sell beer and wine alcoholic beverages
4. **Live entertainment:** Art exhibits, music ensembles performing jazz, classical, and instrumental music.

- a. Applicant is not proposed dancing.
- b. Applicant is not proposing cover charges.

Crime Statistics and ABC Census Data Analysis

Recently, Pomona Police Department has changed their reporting style to be in accordance with the national standard for law enforcement crime data reporting per the Federal Bureau of Investigations and the Department of Justice. The data provided by PD’s Record Management Staff provides “National Incident-Based Reporting System” (NIBRS) statistics. NIBRS is a crime data program that collects detailed data about the characteristics of criminal incidents.

PD captures and reports every criminal incident and arrest that took place within the City’s 100 Police Reporting Districts. “Part A” crimes is similar to the previously reported Part 1 crimes. However, unlike the previous years, Part A crimes include both incidents and arrests. Conversely, “Part B” crimes is somewhat comparable to legacy Part II crimes. Despite being comparable, Part B crimes are only used to report arrest data.

Furthermore, PD does not record “high crimes” or “high crime districts” as they previously did. Instead, the Department records the number of crimes occurring and committed to identify “top crimes” and other patterns and trends to assist in crime prevention efforts.

Police Reporting Districts	2023 Part A & Part B
Project Site 4	652
North 6	216
South 1	106
East 5	564
West 51	103
Southwest 2	97

ABC Data for On-Sale and Off-Sale Alcohol Licenses in Census Tracts

The California Department of Alcoholic Beverage Control (ABC) defines undue concentration if either the threshold of available licenses in the designated census tract is exceeded or if the crime-reporting district is designated as “high crime.” The threshold for number of licenses is based on a ratio of the number of alcohol licenses to population within the Census Tract, in relation to the Los Angeles County average.

According to the guidelines established by ABC, a total of ten on-sale licenses are allowed and a total of five off-sale licenses are allowed in the subject Census Tract No. 4088.00 before the tract is deemed to have undue concentration of either on-sale or off-sale licenses. See chart below.

**Census Tract** | 4088.00

<b>Existing On-Sale Licenses</b>	30
<b>Allowed On-Sale Licenses</b>	10
<b>Existing Off-Sale Licenses</b>	5
<b>Allowed Off-Sale Licenses</b>	4

Based on the data provided by ABC, the project site is located in a census tract that has undue concentration of on-sale and off-sale license types. The high number of on-sale and off-sale licenses within census tract 4088.00 may be attributed to the General Plan Designations of this tract. This tract predominantly consists of 3 designations; Transit-Oriented District: Core, Transit Oriented District: Neighborhood, and Activity Center. These designations are catalyzed by retail, promote walkability, contain a mix of building types, historical assets and a diversity of commercial uses and, also, support the highest housing densities ranging from 70 units an acre to over 100 units. This census tract also contains the entirety of the Downtown Pomona Specific Plan (with the exception of a single parcel), and the Downtown Activity Center which are intended to be the premier activity center “center of the center” of Pomona’s retail and entertainment core. In addition, this census contains parcels within the Pomona Corridors Specific Plan.

Applicable Standards for Alcohol, Off-sale and On-Sale

**Section 540.D.2.a – Alcohol, All**

**1. Promotion**

- i. All exterior signage of any kind including interior window signage, which advertises the sale or availability of alcohol, is prohibited.
- ii. The display or sale of alcohol must not be made from an ice tub.
- iii. Storefront windows must be kept clear at all time from paper, paint, cardboard, or any other material used for signage.
- iv. All exterior windows must be clear glass with no tinting or window coverings either interior or exterior.

**2. Training**

- i. All employees who sell alcoholic beverages must complete a training program in alcoholic beverage compliance, crime prevention techniques and the handling of violence.
- ii. All new employees must complete the “Licensee Education on Alcohol and Drugs” training that is provided by the California Department of Alcohol and Beverage Control (ABC) or equivalent responsible beverage service program within 30 days of hire.

**3. Site**

- i. Loitering or panhandling on the premises is prohibited.
- ii. Overnight parking of vehicles, including recreational vehicles (RVs) on the premises is prohibited.
- iii. Signs prohibiting overnight parking must be placed throughout the parking lot area.
- iv. Vending machines of any kind must not be installed outdoors within the project site.
- v. Pay telephones must not be installed within the enclosed portion of the premises equipped to receive incoming calls.
- vi. New payphones of any kind must be not be installed on the exterior of the premises.

**4. Security**

- i. Designated areas of storage beer and wine must be equipped with a locking mechanism.
- ii. Interior and exterior video surveillance equipment must be provided with signage advising customers that video recording devices are in use.
  - a. Recordings must be digital and recorded in high-definition, kept a minimum of 90 days and must record all activity on surrounding public rights-of-way as well as the subject site.
  - b. Prior to installation of the video surveillance equipment, a video surveillance plan must be approved by the Pomona Police Department.

## 5. Police and City Contact

- i. All crimes occurring inside and outside of the location must be reported to the Police Department at the time of the occurrence.
- ii. At any time when the licensee is absent from the premises, a responsible party must be designated who can respond to any inquiries from City officials.
- iii. The establishment must provide a list annually of no less than 3 employees, who can be contacted 24 hours a day, to the Pomona Police Department's Records Bureau. The list of names will be used to facilitate a Police response to the location in the event of an emergency or other problem that requires entry into the location during non-business hours.

## 6. Noise

There must be no activity conducted on the site that exceeds the noise and vibration parameters of the City Code (Sec. 18-301., Ord. 3939.) at any time, or such other ordinance enacted related to noise and vibration.

## Section 540.D.2.b Alcohol - Off-Sale and Section 540.D.2.c - On-Sale

### 1. Required Liquor License

- i. The establishment must maintain an active Type-20 Off-Sale Beer and Wine license, issued by the California Department of Alcohol Beverage Council (ABC), and comply with all relevant State and local state laws pertaining to the sale and consumption of alcohol.

The establishment must maintain an active Type-41 On-Sale Beer and Wine license, issued by the California Department of Alcohol Beverage Council (ABC), and comply with all relevant State and local state laws pertaining to the sale and consumption of alcohol.

### 2. Hours

- i. The establishment must only sell alcohol under the Type-20 Off-Sale Beer and Wine license during the hours permitted by ABC.

The establishment must only sell alcohol under the Type-41 On-Sale Beer and Wine license during the hours permitted by ABC.

### 3. Off-Sale Type

- i. There must be no beer sold in less than 3-pack quantities.
- ii. The sale of individual cans, bottles, or tapped/keg containers is prohibited.
- iii. Beer or wine must not be sold in containers less than 750mL, unless sold by 4-pack or other manufacturers' prepackaged multi-unit quantities.
- iv. The quarterly gross sales of alcoholic beverages must not exceed the gross sales of the convenience market in the same period.

- v. The applicant or other person issued an ABC license for the Premises (“Licensee”) must at all times maintain records which reflect separately the gross sales of the establishment and the gross sales of alcoholic beverages of the licensed business. These records must be kept on a quarterly basis, and must be provided to City officials upon request.

#### 4. On-Sale Type

- i. Sales of alcoholic beverages under the on-sale privileges of the Type 41 license must be restricted to the interior gross floor area of the eating area, as indicated in the stamped and approved site plan.
- ii. Sales of alcoholic beverages under the on-sale privileges of the Type 41 license must be restricted to the interior gross floor area of the eating area, as indicated in the stamped and approved site plan.
- iii. The applicant or other person issued an ABC license for the Premises (“Licensee”) must at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records must be kept on a quarterly basis, and must be provided to City officials upon request.

#### Required Findings

**Section 1160.D.4 – Findings and Decisions.** A Conditional Use Permit must be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Division’s written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application may be approved if all of the following findings are made.

1. **Land Use Scale & Intensity.** The scale and intensity of the proposed use would be consistent with the scale and intensity of land uses intended for the particular zoning district or use module as indicated in the General Plan.

The site is located within the Downtown Core Segment of the Pomona Corridors Specific Plan (PCSP). This particular segment of the Specific Plan calls a mixed-use urban shopping district with daytime and nighttime activity anchors that complement existing anchors, such as the Fox Theater and the Glass House. The General Plan designates the subject property as an Activity Center. The site is identified as part of a healthy distribution of retail activity that has a unique market focus and role that does not adversely compete with other designated Activity Centers in the City.

The scale of CAVICE Café is consistent with the current land use scale and intensity. This project is not proposing any major modifications that will expand the existing structure.

2. **General Plan Consistency.** The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the goals, policies, plans and exhibits of the General Plan.

*Goal 6A. G3. Improve the physical quality and shopping experience of existing and new activity centers throughout the City.*

CAVICE Café establishment will be a unique and diverse addition to the existing retail and general commercial uses in the Downtown Pomona area. While Downtown Pomona may have several café outlets, CAVICE café is proposing to introduce the sale of beer and wine to appeal to a diverse

range of patrons and increase pedestrian traffic during hours that are less demanding for coffee and similar drinks.

*Policies 6A.P6. Make Downtown a revitalization a high priority.*

Downtown Pomona is recognizable and active sub-regional center for the surrounding communities within the Pomona Valley area and larger San Gabriel Valley region. CAVICE café presence will assist in preserving and ensuring that Downtown Pomona maintains an economically successful and active region.

- 3. Zoning and Development Code/Specific Plan Consistency.** The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the objectives and requirements of this Zoning and Development Code and any applicable specific plan.

The project is located in the Downtown Core Segment of the Pomona Corridors Specific Plan (PCSP). This Segment of the PCSP envisions the promotion and concentration of new retail, dining, and entertainment uses that cater to the entire City and the surrounding region.

A Conditional Use Permit (CUP) is required in the Downtown Core Segment of the PCSP and by the Pomona Zoning and Development Code (Code) for live entertainment uses. Such live entertainment uses may assist in creating a wider appeal to pedestrian oriented retail and to ensure there is a healthy balance of diverse uses between general commercial uses, live entertainment venues, and housing investments. The request is consistent with the requirements of the PCSP and the Code to obtain a CUP to allow for live entertainment and on-sale and off-sale alcohol uses.

- 4. Health, Safety, & General Welfare.** The establishment, maintenance, and operation of the proposed use at the proposed location would not be detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood.

The proposed project is requesting to provide live entertainment and to obtain two ABC license types, a Type-41 and a Type-20 for both on-sale and off-sale alcohol. In particular, the live entertainment request is proposing to provide art exhibits, open poetry sessions, and live musical ensembles, featuring musical acts such as “jazz bands, instrumental bands, and vocalists”. To ensure the operations of the site are not detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood or are injurious to property, conditions of approval will be placed regarding noise, hours of live entertainment operations, and alcohol related provisions.

- 5. Cumulative Impacts.** The establishment, maintenance, and operation of the proposed use at the proposed location would not create cumulative impacts that are detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood.

The request of live entertainment and off-sale and on-sale alcohol uses are subject to restrictions and conditions of approval to mitigate cumulative impacts that may be detrimental to property owners, residents, and persons working in the vicinity.

**Conditions of Approval:**

The Conditions of Approval are contained in the attached resolution (Attachment 1).

Proposed Operations for Live Entertainment and Off-Sale and On-Sale Chart

<b>Operations</b>	<b>Proposed Conditions of Approval</b>
General Café Days and Hours	Days: Monday thru Sunday, 7-days a week  Hours: 5:00 AM to 11:00 PM
Alcohol Off-Sale and On-Sale Days and Hours	Location: Indoor and outdoor on patio area  Days: Monday thru Sunday, 7-days a weeks  Off-Sale Hours: 6:00 AM to 11:00PM <ul style="list-style-type: none"> <li>• In accordance with Alcohol Beverage Control, 6:00 AM is a lawful hour for retail sale of alcoholic beverages.</li> <li>• Anyone purchasing beer or wine shall show identification before the purchase of beer or wine.</li> <li>• Anyone appearing intoxicated shall not be allowed to purchase beer or wine.</li> <li>• Intoxicated persons shall not be permitted to sell beer or wine.</li> <li>• No consumption of off-sale alcohol to be allowed on-site.</li> <li>• Alcohol to be sold by ABC certified employees.</li> <li>• No sale of single cans of beer or wine. Applicant to comply with Off-Sale Alcohol Standards set forth in Pomona Zoning and Development Code Section 540.D.2.b.</li> </ul> On-Sale Serving Hours: 11:00 AM to 10:30 PM <ul style="list-style-type: none"> <li>• Primary driver of the establishment is coffee and light foods, such as pastries, burritos, and sandwiches. On-sale alcohol can be served during “brunch” hours until closing.</li> <li>• Alcohol to be served by ABC certified employees.</li> </ul>
Live Entertainment Days and Hours	Location: Restricted to indoor only. No live entertainment on patio area  Days: Limited to Fridays, Saturdays, and Sundays  Fridays – Limited to Art Galleries, Limited Musical Ensembles of no more than 4 members, and Poetry Nights <ul style="list-style-type: none"> <li>• Hours: 6:00 PM to 11:00 PM</li> <li>• Patrons 18 years of age and older can attend</li> </ul> Saturdays – Limited to Art Galleries, Limited Musical Ensembles no more than 4 members, and Poetry Nights <ul style="list-style-type: none"> <li>• 11:00 AM to 11:00 PM</li> <li>• Patrons 18 years of age and older can attend</li> </ul>



Sunday – Limited to Art Galleries, Limited Musical Ensembles no more than 4 members, and Poetry Nights

- 11:00 AM to 6:00 PM
- Patrons 18 years of age and older can attend

A security guard must be present at all times at the entrance of the establishment to assist in age verification. Attendees from the ages of 18 to 20 shall receive identification markers, such as wrist bands or similar means, to distinguish from 21 and over patrons.

---

**Prohibitions**

No dancing indoor or outdoor on patio area.

No amplified music or sound system indoor and outdoor patio area. All music to be contained indoors.

No live disc jockeys (DJs).

---

**Attachments:**

1. Draft Planning Commission Resolution No. 024-25
2. Project Plans
3. Public Hearing Notice & Radius Map

**DRAFT PLANNING COMMISSION RESOLUTION NO. 24-025**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA APPROVING CONDITIONAL USE PERMIT (CUP-000584-2024) ALLOWING A TYPE-20 (OFF-SALE BEER AND WINE) AND A TYPE-41 (ON-SALE BEER AND WINE – EATERY) AND ALLOWING A LIVE ENTERTAINMENT USE AT 101 WEST MISSION BOULEVARD, SUITE #106 (APN 8341008042)**

**WHEREAS**, the applicant, Andy Rosillo, has filed an application for a Conditional Use Permit (CUP-000584-2024) to obtain two California Department of Alcohol Beverage Control licenses, a Type-20 (Off-Sale Beer and Wine) and a Type-41 (On-Sale Beer and Wine – Eatery) café establishment.

**WHEREAS**, pursuant to Section 520 and Section 1160.D, of the Pomona Zoning and Development Code, which identified certain land uses, activities, and facilities to obtain a Conditional Use Permit to establish the aforementioned; approval of the Planning Commission is required to approve a Conditional Use Permit and to impose reasonable conditions upon the approval of the application;

**WHEREAS**, pursuant to Section 2.2.1 (10) of the Pomona Corridors Specific Plan (PCSP), which established the requirement to obtain a Conditional Use Permit for a live entertainment use; approval by the Planning Commission is required for to approve a Conditional Use Permit and to impose reasonable conditions upon the approval of the application ;

**WHEREAS**, the Planning Commission of the City of Pomona has, after giving notice, thereof as required by law, held a public hearing on November 13, 2024, concerning the requested Conditional Use Permit (CUP-000584-2024); and

**WHEREAS**, the Planning Commission has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the Planning Commission of the City of Pomona, California:

**SECTION 1.** The Planning Commission exercising their independent judgement has determined that pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), that the project is Categorically Exempt under Article 19, Section 15301. Existing Facilities, as the project involves no expansion of the existing use.

**SECTION 2.** If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

**SECTION 3.** In accordance with Section 1160.D. of the Pomona Zoning and Development Code and Section 2.2.1 (10) of the Pomona Corridors Specific Plan, a Conditional Use Permit

must be acted upon by the Planning Commission based upon the information provided in the submitted application, evidence presented in the Planning Division's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application may be approved if all of the following findings are made. Based on consideration of the whole record before it, including but not limited to, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Planning Commission hereby finds as follows:

- A. *The scale and intensity of the proposed use would be consistent with the scale and intensity of land uses intended for the particular zoning district or use module as indicated in the General Plan.*

The site is located within the Downtown Core Segment of the Pomona Corridors Specific Plan (PCSP). This particular segment of the Specific Plan calls a mixed-use urban shopping district with daytime and nighttime activity anchors that complement existing anchors, such as the Fox Theater and the Glass House. The General Plan designates the subject property as an Activity Center. The site is identified as part of a healthy distribution of retail activity that has a unique market focus and role that does not adversely compete with other designated Activity Centers in the City.

The scale of CAVICE Café is consistent with the current land use scale and intensity. This project is not proposing any major modifications that will expand the existing structure.

- B. *The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the goals, policies, plans and exhibits of the General Plan.*

*Goal 6A. G3. Improve the physical quality and shopping experience of existing and new activity centers throughout the City.*

CAVICE Café establishment will be a unique and diverse addition to the existing retail and general commercial uses in the Downtown Pomona area. While Downtown Pomona may have several café outlets, CAVICE café is proposing to introduce the sale of beer and wine to appeal to a diverse range of patrons and increase pedestrian traffic during hours that are less demanding for coffee and similar drinks.

*Policies 6A.P6. Make Downtown a revitalization a high priority.*

Downtown Pomona is recognizable and active sub-regional center for the surrounding communities within the Pomona Valley area and larger San Gabriel Valley region. CAVICE café presence will assist in preserving and ensuring that Downtown Pomona maintains an economically successful and active region.

- C. *The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the objectives and requirements of this Zoning and Development Code and any applicable specific plan.*

The project is located in the Downtown Core Segment of the Pomona Corridors Specific Plan

(PCSP). This Segment of the PCSP envisions the promotion and concentration of new retail, dining, and entertainment uses that cater to the entire City and the surrounding region.

A Conditional Use Permit (CUP) is required in the Downtown Core Segment of the PCSP and by the Pomona Zoning and Development Code (Code) for live entertainment uses. Such live entertainment uses may assist in creating a wider appeal to pedestrian oriented retail and to ensure there is a healthy balance of diverse uses between general commercial uses, live entertainment venues, and housing investments. The request is consistent with the requirements of the PCSP and the Code to obtain a CUP to allow for live entertainment and on-sale and off-sale alcohol uses.

- D. The establishment, maintenance, and operation of the proposed use at the proposed location would not be detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood.*

The proposed project is requesting to provide live entertainment and to obtain two ABC license types, a Type-41 and a Type-20 for both on-sale and off-sale alcohol. In particular, the live entertainment request is proposing to provide art exhibits, open poetry sessions, and live musical ensembles, featuring musical acts such as “jazz bands, instrumental bands, and vocalists”. To ensure the operations of the site are not detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood or are injurious to property, conditions of approval will be placed regarding noise, hours of live entertainment operations, and alcohol related provisions.

- E. The establishment, maintenance, and operation of the proposed use at the proposed location would not create cumulative impacts that are detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood.*

The request of live entertainment and off-sale and on-sale alcohol uses are subject to restrictions and conditions of approval to mitigate cumulative impacts that may be detrimental to property owners, residents, and persons working in the vicinity.

**SECTION 4.** Based upon the above findings, the Planning Commission hereby approves Modification to a Conditional Use Permit (MODCUP-000278-2024) subject to compliance with all applicable laws and ordinances of the City as well as the addition of the following conditions, violations of which (or failure to complete any of which) shall constitute grounds for revocation of the conditional use permit or any portion thereof:

## **PLANNING DIVISION**

### **General Conditions**

1. Approved Plans and Modifications. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Planning

Commission on November 13, 2024 and as illustrated in the stamped approved plans dated November 13, 2024. Any major modifications to the approved project plans shall be reviewed and approved by the Planning Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Development Services Director or their designee.

2. **Approval Period and Time Extension.** This approval shall lapse and become void if construction has not commenced within twelve (12) months from the date of this approval (November 13, 2024) in accordance with the Zoning and Development Code Section 1160.D. The Planning Division may extend this period for a maximum of one (1) year extensions upon receipt of an application for a Time Extension request submitted by the applicant at least thirty (30) days before the expiration date of this approval.
3. **Indemnification.** The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The City shall promptly notify the applicant of any Action brought and the City shall cooperate with applicant in the defense of the Action.
4. **Violation of Conditions.** In case of violation of any of the conditions of approval or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not remedied within a reasonable period of time and/or subsequent violations of the conditions of approval and/or City law occurs within ninety (90) days of any Notice of Correction, the property owner shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law, including, but not limited to, revocation of the herein Conditional Use Permit.
5. **Appeals.** The project is subject to a twenty (20) calendar day appeal period. Written appeals may be filed with the City Clerk within twenty (20) calendar days by one or more City Council members or the applicant. The appeal shall be filed with the City Clerk

within twenty (20) calendar days from the date of action by the Planning Commission.

- 6. Conditions of Approvals on Plans. Prior to plan check submittal, the applicant shall include all conditions of approval from Planning Commission Resolution No. 24-025 on the title sheet of the construction documents.
- 7. Sign Permit. The installation of any signage shall require the submittal of a Sign Permit application for review and approval by the Planning Division.
- 8. Noise During Construction Activity. During construction, all requirements of the Pomona Zoning Ordinance and Municipal Code, including the noise provisions, shall be adhered to. All activities including truck deliveries associated with construction and grading will be limited to Monday through Saturday, between 7:00 a.m. and 8:00 p.m., and provided the noise level created by such activities do not exceed the noise standard of 65 dB(A) plus the limits specified in section 18-311(b) as measured on residential property and any vibration created does not endanger the public health, welfare, and safety.
- 9. Noise and Vibration, General. There shall be no activity conducted on the subject site that exceeds the noise and vibration parameters of Pomona City Code Section 18-301, et seq., and City Council Ordinance No. 3939 at any time, or such other ordinance enacted related to noise and vibration.
- 10. Maintenance During Construction. The property, including all construction areas, shall be kept clean at all times prior to, during, and after construction.
- 11. Maintenance During Operations. The property owner shall provide regular maintenance and cleaning of all exterior walkways, patios, canopies, sidewalks, and landscaped parkways in compliance with Pomona City Code 62-351.
- 12. Removal of Graffiti. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint utilized to cover the graffiti shall substantially match the existing structure. In the event that the paint finish of the abated area is noticeably distinguishable from the rest of the structure, the property owner shall paint additional portions of the building to minimize the disparity, subject to the approval of the Development Services Director or their designee.

**Operational Conditions**

- 13. Cafe Establishment. The café establishment and per the approved ABC Type-41 alcohol license type must operate as a “bona fide public eating place” as defined by the Business and Professions Code, Section 23038.
- 14. Live Music.
  - a. Hours. Live entertainment operations shall be permitted during the following hours:

<u>Day(s)</u>	<u>Time</u>	<u>Music Type &amp; Location</u>
---------------	-------------	----------------------------------

Monday – Thursday	5:00 AM to 11:00 PM	Live entertainment must be prohibited.
Friday	6:00 PM to 11:00 PM	Limited to art galleries and acoustic music only with musical ensembles of no more than 4 members. Patrons 18 and older can attend.
Saturday	11:00 AM to 11:00 PM	Limited to art galleries and acoustic music only with musical ensembles of no more than 4 members. Patrons 18 years of age and older can attend.
Sunday	11:00 AM to 6:00 PM	Limited to art galleries and acoustic music only with musical ensembles of no more than 4 members. Patrons 18 years of age and older can attend.
Holiday Eves and Holidays	11:00 AM to 11:00 PM	Limited to art galleries and musical ensembles of no more than 4 members. Patrons 18 and older can attend.

- b. Musical Acts. Live entertainment is limited to acoustic only. Music ensembles are limited to no more than 4 members. Art gallery exhibitions are permitted. Should the operator want to increase live entertainment activities, a Modification to this Conditional Use Permit (CUP-000584-2024) is required.
  - i) Similar Musical Acts. If the operator proposes a live entertainment activity to be similar to the aforementioned permitted uses, the Director of Development Services, or their designee, at their discretion may approve the proposed activity without a Modification to the Conditional Use Permit (CUP-000584-2024).
- c. Noise and Vibration Levels. There shall be no live entertainment, amplified music, or any other activity on the premises that exceeds noise and vibrations

parameters of Pomona City Code, Chapter 18, Article VII, and City Council Ordinance No. 4110 at any time.

- d. Outdoor amplification. Outdoor amplification music is prohibited.
15. Age Restrictions. Patrons aged 18 and older may attend live entertainment events. The operator must ensure such patrons are not consuming alcohol by visible markers, such as wristbands or other similar means of identification to separate attendees under 21 years of age.
16. Dancing. Dancing is prohibited on the premises.
17. Signage. At no time shall there be signage promoting live entertainment events and activities in the form of banners or any other temporary signage without a separate Sign Permit from the Planning Division.
18. Sale and Service. At all time when the premise is open for business, the sale and service of food shall be available.
19. Loitering. Loitering and panhandling on the premises shall be prohibited.
20. Security. Operator must maintain security guards at both entrances of the establishment to verify age of patrons.
21. Crime Reporting. All crimes occurring inside and immediately outside of the location shall be reported to the Police Department at the time of occurrence.
22. Responsible Party. At any time the licensee is absent from the premises, a responsible party shall be designated to respond to any inquiries from City Officials.
23. Cover Charge and Admittance Fees. At no time must the operator charge patrons and/or attendees additional fee, such as cover charges, to enter the premises for live entertainment events.
24. Conditional Use Permit Inspection. Within six (6) months of approval (March 12, 2025), Applicant must file for a Conditional Use Permit Inspection Request and pay applicable fees. Upon receipt of such an Inspection Request, the Development Services Director, or designee, shall conduct an inspection of the proposed operation and review any complaints received on the property. The Director or their designee shall determine if the applicant is satisfactorily in compliance against all conditions of approval set forth in this Resolution. The Development Services Director, or their designee, may, at their discretion, approve or deny Inspection Requests. If noncompliance is determined, the Director, or their designee, may schedule the matter for review by the Planning Commission to consider bringing revocation proceedings. Applicant shall file for subsequent Conditional Use Permit on an annual basis from the date of approval (beginning November 13, 2025). If such Inspection Requests are not received by the Planning Division by the set dates, revocation may be considered.



25. Violations. If the Development Services Department (inclusive of: Building and Safety Division, Code Compliance Division, Planning Division) receive more than two (2) complaints within a period of six (6) months that are detrimental to the public peace, health, safety, or welfare of residents and visitors, or constitutes a nuisance, such as unpermitted minor and/or major interior or exterior work without a Building and Safety permit, or any violations of the conditions of approval set forth in this Resolution, the live entertainment use shall be suspended for six (6) months from the date the second violation was cited.
26. Revocation. The Planning Commission must have authority to revoke a Conditional Use Permit, based upon one or more of the following findings:
  - a. The Conditional Use Permit approval was obtained by fraud;
  - b. The Conditional Use Permit granted is being, or has recently been exercised contrary to the terms and/or conditions of application approval;
  - c. The Conditional Use Permit granted is being or has been exercised in violation of a federal, State or City statute, ordinance, law, or regulation; and/or
  - d. The Conditional Use Permit granted was exercised in a way that is detrimental to the public peace, health, safety, or welfare, or constitutes a nuisance.

### **Alcohol-Related Conditions**

27. If the California Department of Alcohol Beverage Control (ABC) Operating Restrictions. ABC places operating restrictions on the establishment, the operator must provide the Planning Division evidence within one (1) week of such restrictions. The operator must maintain and remain in compliance with all ABC provisions and any operating restrictions, should they exist.
28. Outdoor Patio Area. The outdoor patio area shall be kept in a clean and orderly manner. Debris and refuse must be promptly cleared. Any type of fencing enclosing the outdoor patio must allow for entering and exiting of the establishment. Maintaining the fencing as accessible and open to pedestrians is to ensure the establishment is providing a walkable and pedestrian oriented retail outlet.
  - a. On-Sale Alcohol. Patrons requesting alcohol and also utilizing the outdoor patio area must be seated by an employee. The sale of alcoholic beverages for on-site consumption shall be served by an ABC certified employee in the outdoor patio area.
29. Alcohol Licensee(s) and Employee Training. The employees who sell or serve alcoholic beverages shall be required to complete a training program in alcoholic beverage compliance, crime prevention techniques and the handling of violence. All new and existing employees and licensees shall be required to complete the following training

programs listed below that is provided by the California Department of Alcohol and Beverage Control (ABC) within thirty (30) days of hire, and any existing employees shall complete this training program within thirty (30) days of the issuance of the Type-41 and Type-20 license. Applicant to provide such documentations during each Conditional Use Permit Inspection Request. ABC training programs to be completed:

- a. Responsible Beverage Service (RBS) Training Program
  - b. Licensee Education on Alcohol and Drugs (LEAD) Training
30. Public Convenience and Necessity. A Public Convenience and Necessity decision from ABC is required as stated in the Business and Professions Code under section 23958.4 subsection 3, (b) (1). 23958.4 subsection 3, (b) (1).
  31. Intoxicated Persons. At no time shall persons appearing to be intoxicated or under the influence of controlled substances be allowed within the premise area of the restaurant, including the outdoor patio area.
  32. Sale to Intoxicated Persons. Anyone appearing to be intoxicated or under the influence of controlled substances shall not be allowed to purchase beer or wine.
  33. Display and Storage of Alcoholic Beverages. All alcoholic beverages must only be stored and displayed in the area approved on the floor plan.
  34. Promotion. All exterior window signage, which advertises the sale or availability of alcohol, shall be prohibited.
  35. Alcohol Display. No display or sale of alcohol shall be made from an ice tub.
  36. Sales and Delivery of Alcohol. Sales and deliveries of alcoholic beverages under the on-sale privileges of the license shall be restricted to the confines of the building and outdoor dining area.
  37. Alcohol Ware. No alcohol shall be served in plastic or Styrofoam disposable cups.
  38. On-Sale. The sale of on-sale alcoholic beverages for consumption on the premises must be consumed on-site only. Operator must not provide options to allow for “to-go” cups or containers for patrons.
  39. Signage. The applicant shall post “no alcoholic beverages beyond this point” signs near the patio exit, subject to the review and approval by the Development Services Director or designee.
  40. Gross Sales. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept on a quarterly basis, and shall be provided to City officials upon request and during Conditional Use Permit

Inspection Request. If the applicant is unable to provide such records, noncompliance may lead to revocation process.

41. Obstructions. No signs or objects shall be placed on the establishment entry/exit door that will obstruct visibility of the patio area.
42. Patron Provided Alcohol. Patrons must not be allowed to bring into the location any alcoholic beverage to be consumed within the establishment, except for bottles of wine, sparkling wine, or champagne brought into a dining area whereby the customer is charged a corkage fee.

#### **BUILDING & SAFETY DIVISION**

43. Operator must obtain a Building and Safety Division permit for any minor and/or major exterior and interior work related to mechanical equipment, electrical, siding, ADA compliance, among many other items that will require a permit from Building.
44. Prior to the issuance of Building and Safety permits, all revisions must be resubmitted for review and approval by the Planning Division.

#### **PUBLIC WORKS DEPARTMENT**

45. The operator shall obtain a Public Works permit for all work in or adjacent to the public right-of-way.

**SECTION 7.** The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

**APPROVED AND PASSED THIS 13<sup>TH</sup> DAY OF NOVEMBER, 2024.**

---

ALFREDO CAMACHO  
PLANNING COMMISSION CHAIRPERSON

**ATTEST:**

---

ATA KHAN  
PLANNING COMMISSION SECRETARY

**APPROVED AS TO FORM:**

---

MARCO A. MARTINEZ  
ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA)  
COUNTY OF LOS ANGELES) ss.  
CITY OF POMONA)

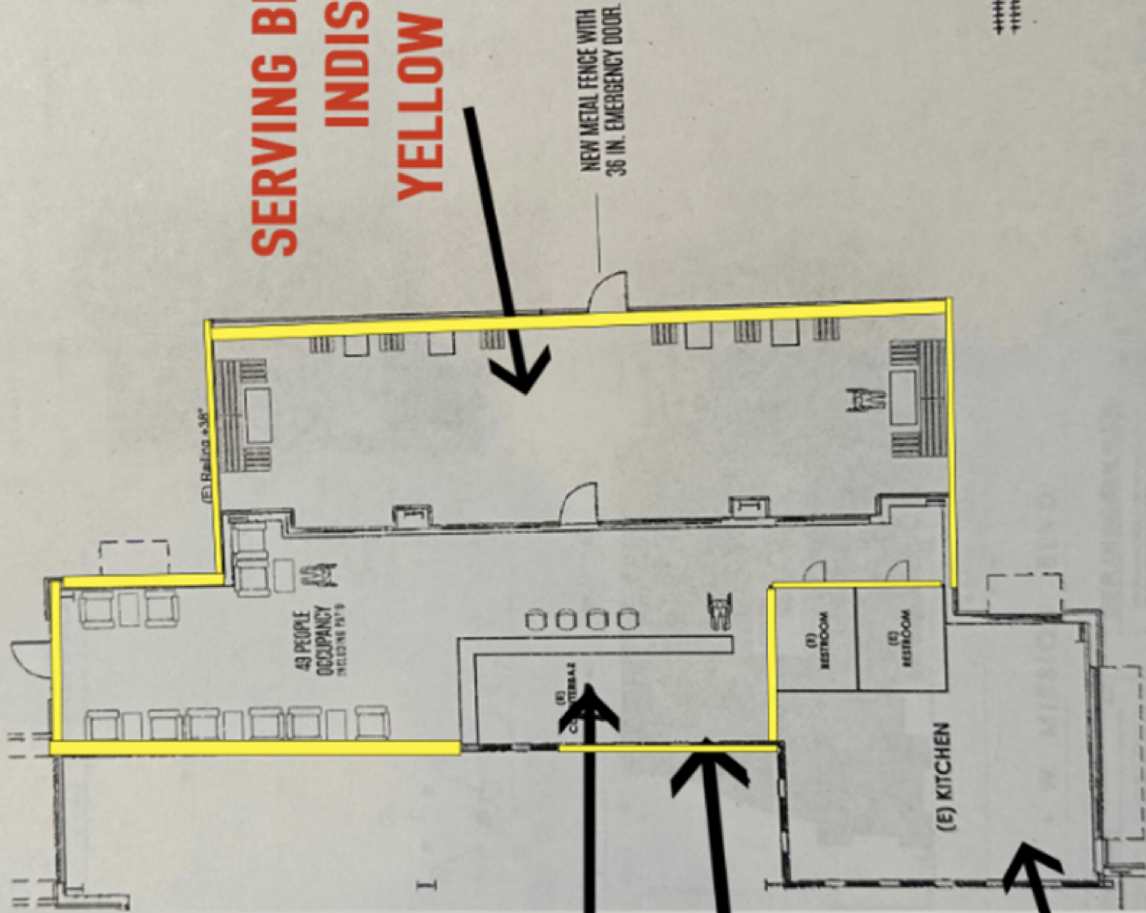
AYES:  
NOES:  
ABSTAIN:  
ABSENT:

Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.



Mission Promenade  
100 West Mission Boulevard  
Pomona, California  
First Floor

**SERVING BEER & WINE  
INDISE THE  
YELLOW PRMISES**



**DISPLAY OF BEER & WINE  
INSIDE THE BAR**

**COOKING AREA**

**AGE OF BEER & WINE  
IN THE KITCHEN**

**DECLARATION OF MAILING**

I, Miroslava PourSanae, say that on the 31st of October, 2024 a copy of the notice attached hereto was mailed to each of the persons whose name and address appears on the attached list. Said mailing was done at Pomona City Hall, Planning Division, located at 505 South Garey Avenue, Pomona, California.

Address: 101 W. Mission Blvd. Suite #106

Project: CUP 000584-2024

Meeting Date: November 13, 2024

I declare, under penalty of perjury, that the foregoing is true and correct.

*Miroslava PourSanae*

---

Executed at Pomona, California on October 31, 2024

FILE # 249482  
101 W MISSION BLVD  
SUBJECT #47  
OCTOBER 22 2024



Susan Case Inc  
4000 Barranca Pkwy #250  
Irvine CA 92604  
orders@susancaseinc.com

**AFFIDAVIT**

**Project Address:**

I, SUSAN CASE hereby certify that on the

23<sup>rd</sup> day of October, 2024, we prepared an ownership list and radius map,

including properties entirely and partially within 400 feet of the most exterior boundaries of the property being considered in the above referenced project known as

(Property Address) 101 W Mission Blvd. The property owner names

and addresses listed on the ownership list and gummed labels were taken from the latest records of the Los Angeles County Assessor. Such names are recorded in the

records of the County Assessor as being the present owner or owners <sup>and occupants</sup> of both the subject property and the property/properties within the required mailing radius of the subject property.

We certify that said ownership list and radius map are correct and accurate to the best of my knowledge. We also acknowledge that any errors in this information will constitute an incomplete application and may invalidate its approval.

Susan Case  
Signature

10/23/24