



City of Pomona

PLANNING COMMISSION STAFF REPORT

DEVELOPMENT SERVICES | PLANNING DIVISION

November 13, 2024

FILE NO: 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.

ADDRESS: 101 W. Mission Blvd., Suite 106 (APN: 8341-008-040)

APPLICANT: Andy Rosillo

PROJECT PLANNER: Irene Mouré, Assistant Planner

ENVIRONMENTAL REVIEW: 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.

STAFF RECOMMENDATION: Approve File No(s). CUP-000584-2024 and adopt Draft Planning Commission Resolution No. 24-025 (Attachment 1)

Project Information:

GENERAL PLAN DISTRICT:	Activity Center	ZONING:	Pomona Corridors Specific Plan (PCSP): Downtown Core Segment
TRANSECT:	T6-A	OVERLAY(S):	N/A
GENERAL PLAN DENSITY:	50 minimum DU/AC to over 100 du/acre maximum	CURRENT LAND USES:	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.	Opened 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

Existing On-Sale Licenses	30
Allowed On-Sale Licenses	10
Existing Off-Sale Licenses	5
Allowed Off-Sale Licenses	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

Operations	Proposed Conditions of Approval
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"> • In accordance with Alcohol Beverage Control, 6:00 AM is a lawful hour for retail sale of alcoholic beverages. • Anyone purchasing beer or wine shall show identification before the purchase of beer or wine. • Anyone appearing intoxicated shall not be allowed to purchase beer or wine. • Intoxicated persons shall not be permitted to sell beer or wine. • No consumption of off-sale alcohol to be allowed on-site. • Alcohol to be sold by ABC certified employees. • 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. On-Sale Serving Hours: 11:00 AM to 10:30 PM <ul style="list-style-type: none"> • 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. • Alcohol to be served by ABC certified employees.
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"> • Hours: 6:00 PM to 11:00 PM • Patrons 18 years of age and older can attend Saturdays – Limited to Art Galleries, Limited Musical Ensembles no more than 4 members, and Poetry Nights <ul style="list-style-type: none"> • 11:00 AM to 11:00 PM • Patrons 18 years of age and older can attend

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