



CITY OF POMONA COUNCIL REPORT

April 7, 2025

To: Honorable Mayor and Members of the City Council

From: Anita D. Scott, City Manager

Submitted By: Betty Donovanik, Development Services Director

SUBJECT: CONSIDERATION OF A FINDING OF PUBLIC CONVENIENCE OR NECESSITY (PCN) FOR AN OFF-SALE BEER & WINE (TYPE-20) ALCOHOL LICENSE IN CONJUNCTION WITH AN EXISTING CAFÉ ESTABLISHMENT LOCATED AT 101 W. MISSION BOULEVARD, SUITE 106

RECOMMENDATION:

It is recommended that the City Council adopt the following resolution (Attachment No. 1):

RESOLUTION NO. 2025-33 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, APPROVING A FINDING OF PUBLIC CONVENIENCE OR NECESSITY AS REQUIRED FOR AN OFF-SALE BEER AND WINE (TYPE-20) ALCOHOL LICENSE IN CONJUNCTION WITH AN EXISTING CAFÉ ESTABLISHMENT LOCATED AT 101 W. MISSION BOULEVARD, SUITE 106

EXECUTIVE SUMMARY:

The Applicant, Andy Rosillo, is requesting a finding of Public Convenience or Necessity (PCN) determination for a Type-20 alcohol license for off-sale beer and wine in conjunction with an existing café associated with an approved Conditional Use Permit (CUP-000584-2024). The approval of a finding of PCN would allow for the off-sale of beer and wine subject to conditions issued by the Planning Commission.

SB1439/GOVERNMENT CODE §84308 APPLICABILITY:

When this box is checked, it indicates the agenda item is subject to the Levine Act SB1439 requirements. Councilmembers are reminded to check their campaign contributions and determine

whether they have received a campaign contribution of \$500 or more that would require disclosure and/or recusal from discussing or acting on this agenda item. Campaign contributions of \$500 or more made 1) by any person or entity who is identified in the agenda report as the applicant or proposer or 2) on behalf of the applicant or participant, including a parent, subsidiary or otherwise related business entity, or 3) by any person who has a financial interest in the agenda item requires a councilmember to comply with SB1439.

FISCAL IMPACT:

No Fiscal Impact.

PREVIOUS RELATED ACTION:

On November 13, 2024, the Planning Commission approved Conditional Use Permit (CUP-000584-2024), a request to allow for a live entertainment use and to obtain two (2) California Department of Alcoholic Beverage Control (ABC) licenses, a Type-41 (On-Sale Beer and Wine – Eating Place) and a Type-20 (Off-Sale Beer and Wine), at an existing café establishment, CAVICE, on a property located at 101 W. Mission Boulevard, Suite 106, on a 6-0-0-1 vote. The Planning Commission Staff Report dated November 13, 2024, with attachments has been provided as Attachment No. 2.

DISCUSSION:

The Applicant, Andy Rosillo, is requesting a finding of Public Convenience or Necessity (PCN) determination for a Type-20 alcohol license for off-sale beer and wine in conjunction with an existing café establishment, CAVICE, associated with an approved Conditional Use Permit (CUP-000584-2024). This Conditional Use Permit also allows for a Type-41 (On-Sale Beer & Wine – Eating Place) alcohol license as well as for live entertainment use.

The primary purpose for both Type-41 and Type-20 requests is to appeal to a wider range of customers and generate more foot traffic during hours of operation where demand and sale for caffeinated beverages are low. The intent for selling alcoholic beverages is to provide customers with a unique experience of pairing coffee drinks, such as espresso and lattes, with wine or beer that have complementary flavor profiles. In particular, the sale of alcoholic beverages is expected during the evenings and live entertainment events.

The intent for the Type-20 license type is to allow customers to purchase the particular wine and beer beverages being sold by CAVICE for offsite consumption. Per the Conditions of Approval set forth in Planning Commission Resolution No. 24-025, customers may purchase these specialty alcoholic beverages, but are prohibited from consuming on-site. Furthermore, CAVICE is planning to partner with and sell wine and beer beverages from both local and international breweries and wineries. Unlike traditional small-scale markets and convenience stores, the selling of specialty wine and beer is an auxiliary component to the primary café operations of the

establishment. Overall, CAVICE café will mainly serve caffeine drinks and mini food and snack items, such as bagels, pastries, sandwiches, and burritos.

In compliance with AB 2897 (the “Caldera Bill”), the California State Department of Alcoholic Beverage Control (ABC) requires that licenses in areas of undue concentration receive a Finding of PCN. Undue Concentration is defined as either:

- (1) The number of alcohol licenses exceeds the threshold of available licenses within a particular census tract. The threshold for the number of licenses is set by ABC and 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 population per census tract.
- (2) The proposed license location is within a crime-reporting district that is locally designated as “high crime.” The threshold for designating a district as “high crime” is twenty percent higher than average number of Group A and Group B per reporting district. ([Average number of Group A and B crimes] x 120% = High Crime)

If the City Council approves a finding and determines that the public convenience or necessity would be served by the issuance of an alcohol license located in an area with undue concentration, ABC will then issue the license to the Applicant. If issued, the café would be permitted to sell beer and wine for off-site consumption. If the City Council instructs Planning Staff to return with a denial Resolution and approves a denial of the finding of Public Convenience or Necessity, the subject site would not be able to meet the conditions of approval, which would effectively prohibit the Applicant from utilizing the Type-20 (Off-Sale Beer & Wine) component of the approved Conditional Use Permit (CUP-000584-2024).

Analysis:

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 10 on-sale licenses are allowed and a total of five (5) 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 Table 1 below.

Table 1: *ABC Data for On-Sale and Off-Sale Alcohol Licenses in Census Tract No. 4088.00*

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 No. 4088.00 may be attributed to the General Plan (GP) Designations of this tract. This tract predominantly consists of three (3) GP 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 tract contains parcels within the Pomona Corridors Specific Plan.

According to 2024 Police Reporting District Data, the threshold for designating a district “high crime” is 134 crimes. This threshold is a 0.5 increase in overall crime from the previous year of 2023. Below, in Table 2, some Reporting Districts have seen a reduction in Part A and Part B crimes while others have experienced an increase. Please note that at the Planning Commission on November 13, 2024, Staff presented available 2023 Part A and Part B Crimes data. Since then, 2024 Police Reporting District Data is available. This document has been updated to reflect the newest available data.

The subject site is located in Police Reporting District No. 04, which experienced a total of 340 Part A Crimes and Part B Crimes (Table 2). Therefore, the district is considered a “high crime” reporting district.

Table 2. *Police Reporting District Data (2023 and 2024)*

Police Reporting Districts	2023 Part A & Part B Crimes	2024 Part A & Part B Crimes
Project Site		
4	450	340
North		
6	166	177
South		
1	38	97
East		
5	394	342
West		
51	74	100
Southwest		
2	85	128

The proposed addition of an off-sale license will further exceed the number of allowed off-sale licenses within the respective census tract and, separately, the establishment is located within a police-reporting district that is designated as “high crime.” Therefore, a finding of Public Convenience or Necessity by City Council is required for the applicant to obtain an ABC license for off-sale beer and wine sales at the subject property.

Staff does not find the activation of this license in this area to be detrimental to health, safety, and general welfare within the vicinity of the project site and would support the finding of a PCN for the following reasons:

- a. **Activation of a Type-20 License Poses Limited New Public Safety Risks.** This project site is located within the Downtown Pomona area. There are several diverse day and nighttime eating and entertainment outlets that have existing alcohol licenses. The establishment of a Type-20 license is subject to restrictions and conditions of approval set forth in Planning Commission approved Resolution No. 024-25 to mitigate impacts that are detrimental to the health, safety, or general welfare of persons residing, working, or visiting the Downtown Pomona area. Therefore, the activation of a Type-20 license poses limited new public safety risks.
- b. **Economic & Public Health Benefits Outweigh Public Safety Risks.** 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. 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 caffeinated drinks. The café establishment is a part of a larger mixed-use area that has a concentration of retail outlets, entertainment venues, and eateries that serve the nightlife of Downtown Pomona. Therefore, the economic and public health benefits for the Downtown Pomona area outweigh any new public safety risks created by approving this license.
- c. **Inherent Concentration of Licenses at a Key Commercial Intersection.** The Census Tract is located within the Downtown Core Segment of the Pomona Corridors Specific Plan (PCSP). This particular segment of the Specific Plan calls for a mixed-use urban shopping district with daytime and nighttime activity anchors that complement existing entertainment anchors, such as the Fox Theater and the Glass House. In other words, the literal Census Tract concentration interpretation of this area does not prove helpful, as the concentration is a byproduct of available mixed-use retail and commercial zoning in the area, and not the boundaries of the census tract itself.

In summary, based on the aforementioned analysis, Staff determines the activation of this license in this area is a Public Convenience. Activating the license as a Public Convenience will assist in maintaining the economic ecosystem of the Downtown Pomona core.

COUNCIL PRIORITIES & GOALS:

The project site is designated as General Plan Place Type Activity Center, which contemplates either commercial uses or mixed uses, as well as Transect Zone T6-A which allows residential densities of a minimum of 50 to over 100 dwelling units per acre. The proposed use is consistent with the site's designated General Plan Place Type. The project is consistent with the following General Plan goals:

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

The 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's presence will assist in preserving and ensuring that Downtown Pomona maintains an economically successful and active region.

Allowing the proposed use of an off-sale alcohol license supports the aforementioned General Plan goals pertaining to walkability, expansion of the Downtown Area, and economic support of existing businesses. In addition, the Conditional Use Permit now contains an annual inspection fee in which the Planning Division may inspect the property to ensure the issued Conditional Use Permit is in compliance with all issued conditions of approval. Should the permit conditions of approval not be satisfied or should the permit prove to contribute to crime rates in the area, the permit may be revoked by the Planning Commission.

ALTERNATIVE:

The City Council has the following alternative:

- 1) Instruct Planning Staff to return with a City Council Resolution denying a finding of Public Convenience or Necessity.

Prepared by:
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Assistant Planner

ATTACHMENTS:

Attachment No. 1 – Resolution No. 2025-33

Attachment No. 2 – Planning Commission Staff Report dated November 13, 2024 with
Attachments

Attachment No. 3 – Approved Planning Commission Resolution No. 24-025