



# CITY OF POMONA

## PLANNING COMMISSION REPORT

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**DATE:** August 9, 2017

**TO:** Chairman and Members of the Planning Commission

**FROM:** Planning Division

**SUBJECT:** CONDITIONAL USE PERMIT (CUP 7626-2017):

A request for a Conditional Use Permit (CUP 7626-2017) to allow the sale of alcoholic beverages (on-sale beer and wine – Type 41 ABC license) for on-site consumption in conjunction with a new restaurant (Mariscos) located at 1648 Indian Hill Boulevard, Unit C in the C-3 (General Commercial) zone.

### STAFF RECOMMENDATION

The Planning Division recommends that the Planning Commission adopt the attached Resolution (Attachment 1) approving Conditional Use Permit (CUP 7626-2017), subject to conditions.

### PROJECT/APPLICANT INFORMATION

**Project Location:** 1648 Indian Hill Boulevard, Unit C  
**APN Information:** 8322-022-022  
**Project Applicant:** Rosa de lima Yanez de Contreras  
**Property Owners:** Reliable Properties RC  
**CC District:** District # 4  
**Historic/CBD:** Not Applicable  
**Specific Plan:** Not Applicable

### PROJECT DESCRIPTION

The applicant, Rosa de lima Yanez de Contreras (Mariscos), is requesting a Conditional Use Permit (CUP 7626-2017) to allow the sale of alcoholic beverages (on-sale beer and wine – Type 41 ABC license) for on-site consumption in conjunction with a new restaurant. The restaurant occupies an approximately 4,449 square foot tenant space within a large, multi-tenant, 48,542 square foot building on a 3.26 acre parcel within the C-3 (General Commercial) zone and designated Urban Neighborhood in the General Plan (Attachment 2).

The applicant anticipates having a total of seventy-five employees with approximately twenty-five employees on the premises during peak hours at this location. The restaurant will be open 24

hours per day, seven days per week. However, alcohol will only be served between 6:00 a.m. and 2:00 a.m., as limited by the California Alcohol Beverage Control (ABC). However, should the Planning Commission want to further limit the hours of alcohol service, it may be done by condition in the resolution.

The restaurant has an interior floor area of 4,449 square feet and is comprised of a main dining area, bar, stage, kitchen and utility areas (Attachment 3). A Thai restaurant was formerly in the space and installed the stage. The applicant has stated they have done no remodeling other than to make electrical upgrades. Although there is a stage for live music, there is no dance floor identified on the floor plans and no area large enough to be categorized as a dance floor.

The main dining area consists of approximately 1,459 square feet and contains tables and chairs and booths for dining. The bar area is approximately 277 square feet. The stage is roughly 200 square feet. The applicant is proposing to store the alcohol within the bar and a walk-in cooler area within the food preparation area. Alcohol will be consumed by patrons both within the interior dining area. All orders of alcoholic beverages will be served by restaurant employees (waiters/waitresses), with no direct access by patrons.

### **Applicable Code Sections**

Section .580.J and .5809.4 of the Zoning Ordinance establishes criteria for approval of a Conditional Use Permit for the on-sale of alcoholic beverages in conjunction with a bona-fide restaurant. The requirements for approval of on-sale alcohol sales are:

- 1) **Off Street Parking:** Provide one off street parking space per each four persons of occupant load as defined in the Uniform Building code, city of Pomona.
- 2) **Parking Lot:** Parking lots, including landscaping and lighting, shall be installed and maintained per city standards.
- 3) **Area Compatibility:** The proposed on-sale liquor establishment shall be compatible with existing development in the area.
- 4) **Proximity:** The proposed location shall be sufficiently removed from any existing residential development or zoning and any church, school, park, or playground so as not to be detrimental to that use.

### **Surrounding Land Use Information**

The following table summarizes the surrounding land uses, zoning and general plan designations for Planning Commission consideration.

**Land Use Summary Table**

	Existing Land Use	Zoning Designation	General Plan Designation
Subject Site	Retail	C-3 (General	Urban Neighborhood

	Existing Land Use	Zoning Designation	General Plan Designation
		Commercial)	
East	Single family residential	R-1-7,200 (Single Family min. lot size 7,200 s.f.)	Residential Neighborhood
North	Retail, Single and Multi-family residential	C-3, R-1-7,200 and R-2 (Low Density Multi-Family)	Urban and Residential Neighborhood
South	Single family residential	R-1-7,200	Residential Neighborhood
West	Retail	C-3	Urban Neighborhood

## ZONING COMPLIANCE ANALYSIS

### ABC Census Tract Information

According to the guidelines established by the State Department of Alcoholic Beverage Control (ABC), a total of three on-sale licenses are allowed in Census Tract No. 4027.06 before the tract is deemed to have undue concentration. The population of the Census Tract determines the number of licenses permitted. Currently, there are no establishments with an on-sale alcohol license in the subject Census Tract. Thus, the existing number of on-sale licenses is not currently above the maximum permitted in the Census Tract, and will not create an undue concentration. The approval of an on-sale alcohol license is below the number of allowed on-sale licenses in the census tract. The following table summarizes the concentration of on-sale ABC licenses in Census Tract No. 4027.06 and the adjoining Census Tract No. 4027.03 to the north. A map showing the number and location of all active on-sale ABC licenses within the two Census Tracts is provided for Commission consideration (Attachment 4).

#### ABC Data on Alcohol Licenses in Census Tracts

	Existing Licenses	Allowed Licenses
	On-sale	On-sale
Subject Census Tract 4027.06	0	3
Adjoining Census Tract (North) 4027.03	0	4

### **Police Department Review**

The Pomona Police Department has reviewed the proposed application for the sale of alcohol (on-sale beer and wine) at the existing restaurant. As part of the Police Department's review, they considered both the concentration of alcohol licenses and crime data.

The subject site is located in Police Reporting District No. 16, which is classified as a high crime district according to figures provided by the Police Department. In 2016, the District experienced a total of 173 Part I Offenses and Part II Arrests. The threshold for designating a district high crime is 160 crimes. Crime statistics for the subject reporting district, and adjacent reporting districts are provided in the following table, as received in February, 2017 by staff. A map showing location of Police Reporting District No. 16 and adjacent districts is provided for Commission consideration (Attachment 5).

**Police Reporting District Data**

	<b>Police Reporting District</b>	<b>Part I Offenses and II Arrests (2013)</b>
<b>Census Tract 4027.06</b>	<b>16</b>	<b>173*</b>
<b>Census Tract 4027.06</b>	<b>18 (west)</b>	<b>123</b>

\* Indicates High Crime Area

The State Department of ABC defines undue concentration if either threshold of license number is exceeded or the crime reporting district is defined as "high crime." In this case the subject police reporting district is considered "high crime". However, the number of existing on-sale ABC licenses, including the proposed, would not exceed the maximum allowed for the census tract.

### **ISSUE ANALYSIS**

#### **Issue 1: General Plan/Land Use**

The General Plan land use map designates the subject project as Urban Neighborhood. No change to the design of the building or its use is proposed. The proposed project is consistent with the following objective from the Economic Development Element of the General Plan:

*"It is the policy of the City of Pomona to encourage, with all means possible, the economic development and redevelopment of the private sector."*

Approving the proposed Conditional Use Permit to allow the sale of alcoholic beverages for on-site consumption, in conjunction with a restaurant, would contribute to the diversification of the City's economy and promote an increased mix of uses.

## **Issue 2: Zoning Ordinance Compliance**

Staff has evaluated the proposed project and has determined that the proposed use is in compliance with the C-3 (General Commercial) zone. The proposed on-sale alcohol (beer and wine – Type 41 ABC license) in conjunction with an existing bona fide restaurant is a conditionally permitted use within the C-3 zone. The proposed project conforms to the Zoning Ordinance, and as a result, the granting of this Conditional Use Permit, subject to conditions, will not adversely affect the Zoning Ordinance.

## **Issue 3: Sensitive Uses**

Pursuant to Zoning Ordinance Section .5809, the subject site should be “sufficiently removed” from sensitive uses so that the proposed alcohol sales will not be detrimental to these uses. Sensitive uses including, residential neighborhoods, schools, churches and parks, have been evaluated in the area. The following tables (next page) delineate the distance between the restaurant and neighboring sensitive uses:

Residential	Distance from restaurant
Single family	164' (east) 506' (south) 420' (north) 457' (southwest)
Multi-family	570' (northwest)

Schools	Distance from restaurant
Montvue Elementary	.10 miles (north)
Allison Elementary	.73 miles (northwest)
Emerson Middle School	1.13 miles (west)
Pomona High School	1.34 miles (northwest)

Parks	Distance from restaurant
Montvue Park	.09 miles (north)
Jaycees Park	0.95 miles (northwest)

Churches	Distance from restaurant
Lincoln Avenue Reformed Church	.28 miles (southwest)
First Church of God	.65 miles (southwest)
Holy Missionary Baptist Church	.72 miles (northwest)

The proposed use is sufficiently removed from sensitive uses so that the proposed alcohol sales will not be detrimental to these uses. In addition, the potential for detrimental impacts will be further reduced because alcohol will be served in a controlled environment. Furthermore, the on-sale license, as conditioned, is not expected to have a detrimental effect on the immediate area. A map showing location of sensitive uses adjacent to the subject site is provided for Commission consideration (Attachment 6).

## **ENVIRONMENTAL ANALYSIS/DETERMINATION**

Pursuant to the provisions of the California Environmental Quality Act (CEQA-Public Resources Code, Section 21084 et. seq.), the guidelines include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. In compliance with Article 19, Section 15303, (Class 3 – New Construction or Conversion of Small Structures), the proposed project described above hereby meets the guidelines for a Categorical Exemption. Therefore, no further environmental review is required.

## **PUBLIC COMMUNICATIONS**

A copy of the public hearing notice was published on July 27, 2017 in the Inland Valley Daily Bulletin and was sent to the owners and occupants of properties within a 400-foot radius of the subject site on July 27, 2017 (Attachment 7). As of the date of this staff report, staff has not received any correspondence either supporting or opposing the proposed project.

## **CONCLUSION**

The proposal is consistent with the allowed uses and development standards of the C-3 (General Commercial) zone. Based on staff's analysis of the issues, the on-sale alcohol, as conditioned, will be compatible with the adjacent land uses and will not result in any adverse impacts to the surrounding area with the recommended operating conditions.

## **RECOMMENDATION**

The Planning Division recommends that the Planning Commission adopt the attached Resolution (Attachment 1) approving Conditional Use Permit (CUP 7626-2017), subject to conditions.

Respectfully Submitted By:

Prepared By: Jeff Hamilton, Contract Planner



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Brad Johnson  
Development Services Manager

**ATTACHMENTS:**

- 1) Draft PC Resolution
- 2) Location Map & Aerial Photograph
- 3) Project Plans Reductions (8-1/2" x 11")
- 4) Exhibit of On-sale ABC licenses in Census Tracts 4027.06 and ABC License Type Description
- 5) Exhibit of Police Reporting Districts
- 6) Exhibit of Sensitive Uses
- 7) 400-foot Radius Map & Public Hearing Notice
- 8) Full Size Project Plans (Separate Cover)