



# CITY OF POMONA

## PLANNING COMMISSION REPORT

**DATE:** November 14, 2018

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

**FROM:** Development Services Department, Planning Division

**SUBJECT:** **MODIFICATION OF CONDITIONAL USE PERMIT (MODCUP 10790-2018):** Request for approval of Modification of Conditional Use Permit (MODCUP 10790-2018) modifying Conditional Use Permit (CUP 06-005) and Conditional Use Permit (CUPM 06-005) to allow changing one restaurant into two restaurants totaling 6,800 square feet, with a shared bona fide kitchen, and changes to exterior façades, patio expansion and modification of certain conditions at 101 West Mission Boulevard #101 located in the Downtown Core Segment of the Pomona Corridors Specific Plan (APN 8341-008-042).

### STAFF RECOMMENDATION

The Planning Division recommends the Planning Commission approve the attached Resolution approving Modification of Conditional Use Permit (MODCUP 10790-2018) to permit located at 101 West Mission Boulevard #101, subject to findings and conditions. (Attachment 1)

### PROPERTY & APPLICANT INFORMATION

Project Location	101 W. Mission Blvd. #101
Assessor's Parcel Number (APN)	8341-008-042
Project Applicant	John Peña
Property Owner	Mission Oak Group LLC
City Council District	District # 2
Historic/CBD	Not Applicable
Zoning	Downtown Core Segment and Mixed-Use Central Business District
Specific Plan	Pomona Corridors Specific Plan & Pomona Specific Plan

### RELATED ACTIONS

Planning Commission	Approved Resolution No. 06-016 (CUP 06-005) to allow general alcohol (Type 47) ABC license and live music (solo performer) in conjunction with a bona fide restaurant. - March 8, 2006.
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Approved Resolution No. 09-015 (CUPM 06-005) to allow an extension in closing hours from 10:30 p.m. to 2:00 a.m. - May 27, 2009.

## PROJECT DESCRIPTION AND BACKGROUND

The subject property was developed in 2003 and contains two three-story mixed-use buildings known as the “Mission Promenades” which are comprised of retail, restaurants, office and condominiums. The retail/office components of the buildings were previously owned by the City’s Successor Agency which as of August 28, 2018 has been sold to Mission Oaks Group LLC. The unit to be occupied is located inside the building on the southerly end of the lot; closest to Mission Boulevard and is 6,800 square feet in size. Two Conditional Use Permits exist with the property: CUP05-006 which was approved on March 8, 2006 to allow general alcohol (Type 47) ABC license and live music (solo performer) in conjunction with a bona fide restaurant; and CUPM05-006 which was approved on May 27, 2009 to allow an extension in closing hours from 10:30 p.m. to 2:00 a.m. (See Attachment 2, 3 & 4)



(West building elevation looking from interior driveway – view of proposed improvement areas)

The applicant is requesting a Modification of Conditional Use Permits to allow the following:

1. Divide the restaurant into two with one shared bona fide kitchen;
2. Create a new outdoor eating area along the northern corner of the restaurants entrance;
3. Expand the On-Sale-General alcohol onto new exterior patio area;
4. Permit live entertainment in the patio on Sundays;

5. Change hours of operation on weekdays, weekends and Holiday eves; and
6. Construct various exterior building modifications to the west building elevation consisting of a new walkway, a new patio door, new roll up door, and a new sliding patio door. The proposed changes to the façade are non-structural and retrofitted within the existing door or window frames.

## **ZONING COMPLIANCE ANALYSIS**

### **Land Use**

The site is located within two specific plan areas and restaurant use, alcohol use and other ancillary uses are permitted and conditionally permitted. (Attachment 5) Table 1 summarizes the surrounding land uses, zoning, and general plan designations.

**Table 1. Surrounding Land Uses**

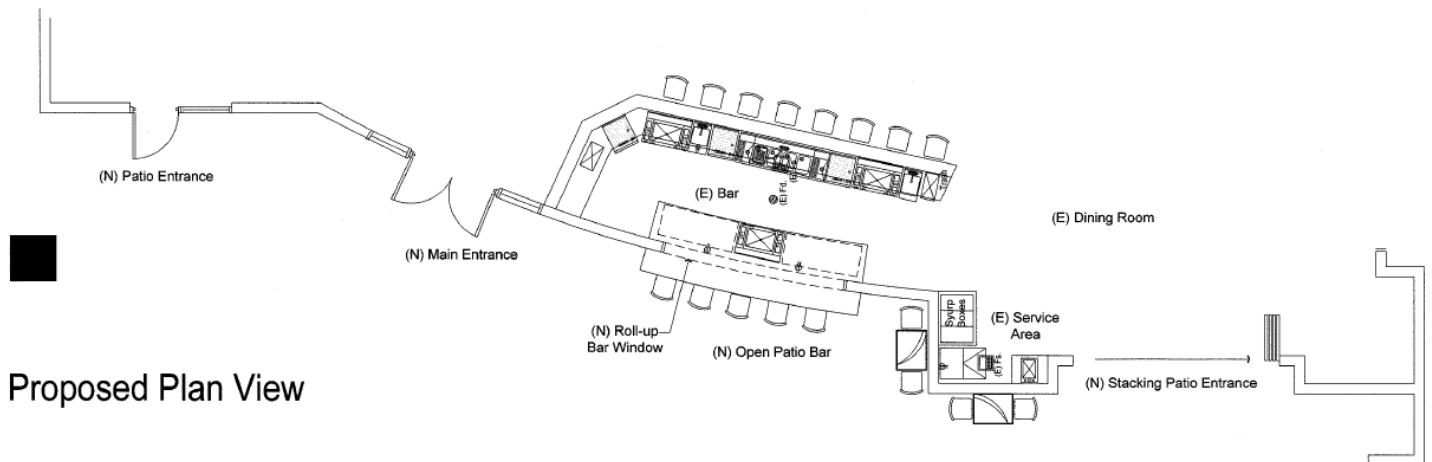
	<b>Existing Land Use</b>	<b>Zoning Designation</b>	<b>General Plan Designation</b>
<b>Project Site</b>	Proposed restaurants	CSP Downtown Core Segment / DTPSP Mixed-Use Central Business District (CBD)	Transit Oriented District Core (western half)/ Activity Center (eastern half)
<b>North</b>	Commercial	DTPSP Mixed-Use Central Business District	Activity Center\Transit Oriented District Core
<b>South</b>	Civic Center	DTPSP Mixed-Use Institutional District	Special Campus
<b>East</b>	Mixed Use	DTPSP Mixed-Use CBD CSP Downtown Core Segment	Activity Center\Transit Oriented District Core
<b>West</b>	Commercial Office	DTPSP Mixed-Use CBD CPS Midtown Segment	Transit Oriented District Core

### **Development Standards:**

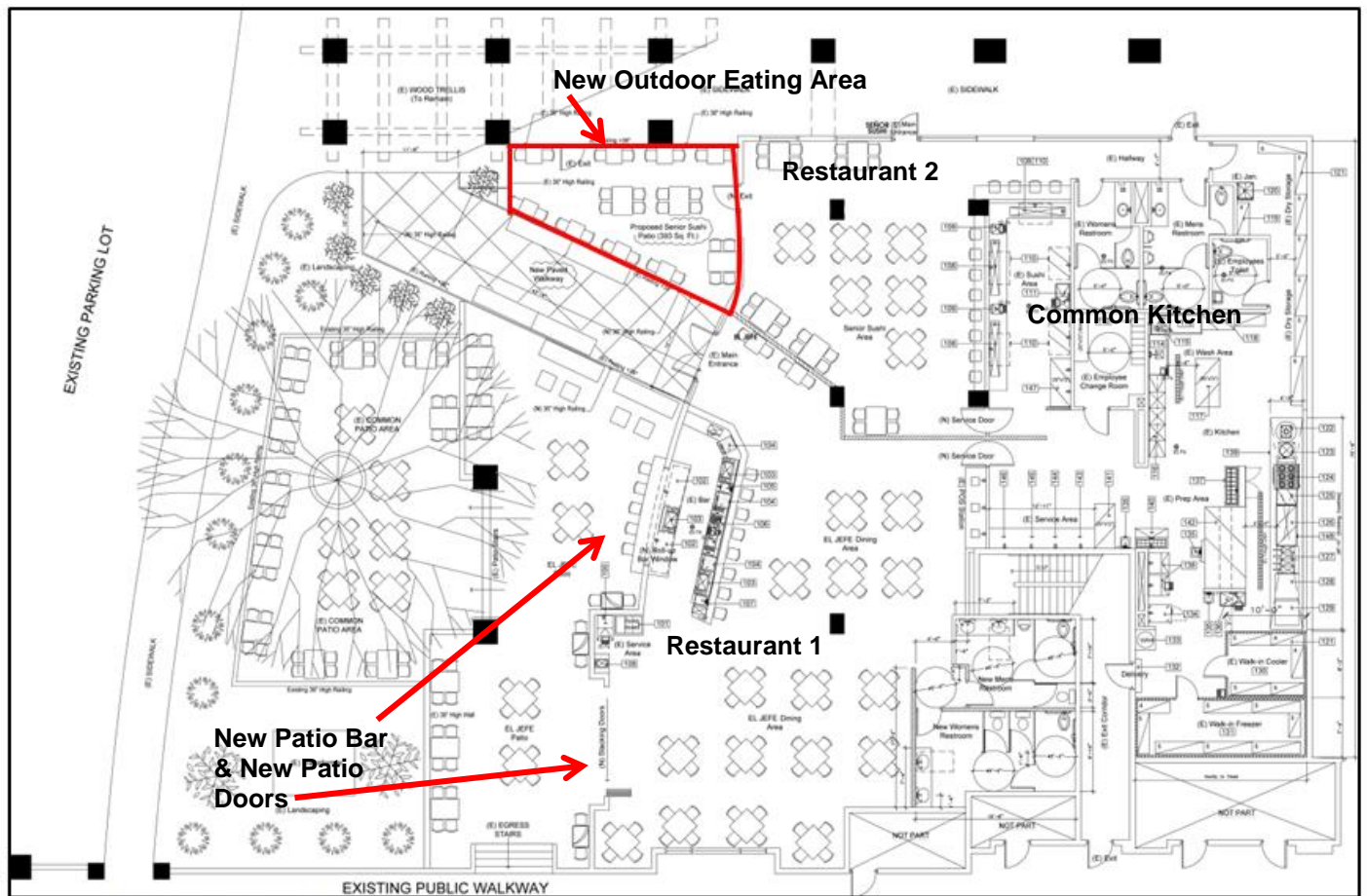
Because no additions are being proposed, the development standards of the PCSP do not apply with the exception of the architectural standards as the exterior west building elevation is being modified. The proposed façade improvements, patio expansion, and new restaurant addition is permitted with modification of conditional use permit. All development standards remain in compliance.

### **Site Plan, Floor Plan and Elevations**

On the northerly west side of the building, a new 393 square feet patio area will be created with a wrought iron fence for the sushi/mariscos restaurant and the existing window adjacent to the patio area will be replaced with a new patio entrance door. On the south western side of the building, facing the Camphor tree will be the Mexican's Restaurants patio area. An existing double door will be replaced with a new stacking door and an existing window adjacent to the bar area will be replaced with a new roll-up window. These façade changes will provide a shared dining experience between the indoor and outdoor patrons (see floor plan views on next page).



Proposed Plan View



Proposed Site Plan/Floor Plan

The requested changes in hours of operation are as follows:

10:00 a.m. to 11:30 p.m. Monday through Thursday (**change from 10:30 to 11:30 p.m. closing**)

10:00 a.m. to 12:30 a.m. Saturday and holiday eves (**change from 2:00 a.m. to 12:30 a.m.**)

8:00 a.m. to 11:30 p.m. Sunday with a trio in patio (**change from 10:30 p.m. to 11:30 p.m. closing – Trio only allowed from 11:00 a.m. to 4:30 p.m. No amplified music by DJ or live band/no club-like form of music and entertainment on the patio is permitted such as with the *Detox at the Sky Bar* in Pomona**)

The applicant is also requesting the expansion of On-Sale-General Alcohol onto new exterior patio area and to allow live entertainment in the patio on Sundays. The live entertainment is limited to a solo performer (no more than three people) and no other changes are being proposed. It should be noted that the applicant has received written support of the proposed changes in hours, live entertainment, business operations and exterior modifications by the Mission Promenade HOA. (Attachment 6)

### **Census Tract Information and Crime Statistics**

According to the Guidelines established by the State Department of Alcohol Beverage Control (ABC), a total of three on-sale and two off-sale licenses are allowed in Census Tract No. 4088 and there are currently 24 active on-sale alcohol licenses. Therefore, a new alcohol license for the proposed use will create an undue concentration of alcohol licenses in Census Tract No. 4088 (Table 2 below).

**Table 2.** ABC Data on Active Alcohol Licenses in Census Tract No. 4088

	Existing Licenses		Undue Concentration Threshold	
	On-sale	Off-sale	On-sale	Off-sale
<b>Subject Census Tract 4088</b>	24	4	3	2

The proposed project is located in Police Reporting District No. 4 which has a total of 395 crimes reported. The Police Department's threshold for designating a district as "high crime" is a report of 156 crimes; therefore District No. 4 is classified as a high crime district. Therefore, the Police Reporting District No. 4 is classified as a high crime district.

Based on both the high crime threshold and alcohol license threshold, there is an undue concentration for the area. Therefore, a finding of public convenience or necessity will be required prior to the applicant submitting for a license to ABC at this property. Per Business and Professions Code under section 23958.4 subsection 3, (b) (1), a finding of public convenience will be determined by ABC and not the City Council in the case of a bona fide restaurant uses.

### **Sensitive Uses**

Pursuant to Pomona Zoning Ordinance (PZO) Section .5809, the subject site should be "sufficiently removed" from sensitive uses so that the proposed alcohol sales will not to be

detrimental to surrounding uses. Sensitive uses include residential developments, churches, schools, and parks. The following table summarizes the types of sensitive uses near the proposed use and the distance from the sensitive uses to the proposed use.

**Table 3. Sensitive Uses**

Type	Sensitive Use	Distance PL to PL	Distance Bldg. to Bldg.
Residential	Single Family Homes	480 ft.	517 ft.
Residential	Condominiums	n/a	Same Building
Church	Masonic Temple	145 ft.	300 ft.
Church	Centro Promesa De Dios JRE	428 ft.	634 ft.
Church	True Vine Christian Church	623 ft.	642 ft.
Church	Pomona Holy Church	335 ft.	737 ft.
School	The School of Arts and Enterprise	247 ft.	542 ft.
Park	None	None within 600 ft.	None within 600 ft.

There are condominiums located on the third floor of the subject site and single family homes within 600 feet of the subject site. There are three churches, Centro Promesa De Dios JRE, True Vine Christian Church and Pomona Holy church which are located within 600 feet of the subject sit. There is only one school located within 600 of the subject site (The School of Art and Enterprise) and there are no parks within 600 feet of the subject site.

The impact of the proposed project on the sensitive uses will be minimal, because the alcohol use is an ancillary use to the bona fide restaurant.

#### **Applicable Code Sections**

Pursuant to Section .580 of the Pomona Zoning Ordinance, which establishes criteria for a Conditional Use Permit, approval by the Planning Commission is required for modification to previously approved Conditional Use Permits CUP 05-006 and CUPM 05-006. Major Goals and Policies within the General Plan that pertain to the subject property and its neighborhood include:

*Goal 6A.G4 - Make Downtown Pomona an economically successful and active sub-regional center of the surrounding San Gabriel Valley Foothill communities.*

*Policy 6A.P6 - Make Downtown revitalization a high priority.*

*Goal 6B.G8 – Increase the number of people who live, work, and shop in Downtown.*



*Policy 6B.P8 – Strengthen Downtown’s role as an active workplace district that supports profitable and innovative businesses.*

*Goal 7A.G2 – Promote a balance mix of uses throughout the city that can be a part of an integrated and sustainable local economy that supports harmonious diversity and economic prosperity.*

## ANALYSIS

Staff has evaluated the proposed changes to CUP06-005 and CUPM 06-005 and has determined the project to be in compliance with the applicable code sections of the Pomona Zoning Ordinance and Specific Plans, as conditioned. The proposed project is also consistent with General Plan Goals 6A.G4, 6B.G8, and 7A.G2; and Policies 6A.P6 and 6B.P8 which encourage Pomona to be a self-sustaining city by supporting a range of uses to meet the needs of the residents.

Modification of Conditional Use Permit 10790-2018 will be conditioned to assure the proposed modifications to the operation of the business and patio will not adversely affect the surrounding residents and businesses. The expansion of the general alcohol sales onto the patio is incidental to the bonafide restaurant and the live entertainment will be limited to a solo artist (maximum of three people) which will cease by 10:30 p.m. daily except for Sundays which will cease by 4:30 p.m. The live entertainment will only be allowed in the patio on Sundays. As such, the conditions of approval have been amended to reflect the following changes (see condition 16, 18, 21, 22 in resolution):

16. Live music shall be limited to an acoustic solo performer or group (no more than three (3) people) in a designated area in the restaurant and shall serve as background or trio on the patio areas to accompany diners/patrons of the restaurant is acceptable. DJ’s with amplified music shall be prohibited. At no time shall there be more than one (1) group or performer performing in the restaurant.
18. Live acoustic music conducted indoor shall cease no later than 10:30 p.m., Monday through Saturday. Live acoustic music conducted outdoor in the patio is limited to Sundays only and shall cease no later than 4:30 p.m.
21. When live acoustic entertainment is being conducted Monday through Saturday, the front doors leading to the restaurant shall remain closed at all times to permit normal servicing and customer access.
22. The restaurant shall be permitted to operate between the following hours:  
10:00 a.m. to 11:30 p.m. Monday through Friday  
10:00 a.m. to 12:30 p.m. Saturday, Sunday, and holiday eves 11:00 a.m. to 4:30 p.m.  
Sunday with a trio in patio (**change from 10:30 p.m. to 4:30 p.m. closing – no**

**amplified music by DJ or live band/no club-like form of music and entertainment on the patio is permitted such as with the *Detox at the Sky Bar* in Pomona)**

As demonstrated by the applicant's plans, the proposed change in floor plan, alcohol expansion into the patio area and the façade modifications to the west building elevation will contribute to the general well-being of the neighborhood and community by providing a unique dining experience for local restaurants. Lastly, the subject site is sufficiently removed from sensitive uses except for the condominiums located on the third floor of the complex; however; restrictions put in place will assure limited impacts will be created by the operation.

**ENVIRONMENTAL ANALYSIS/DETERMINATION**

The project qualifies as a Class 1 Categorical Exemption under CEQA Section 15301 (Existing Facilities) because the project consists of a minor alteration to an existing building that consist of a change in floor plan and patio area. Approval of the project will not result in any significant effects relating to traffic, noise, air quality, or water quality, and the site can be adequately served by all required utilities and public services. Therefore, there is no possibility that the project will have any significant effects on the environment.

**PUBLIC COMMUNICATIONS**

A copy of the public hearing notice was published in the Inland Valley Daily Bulletin on October 30, 2018 and was sent to the owners of properties within a 1,000-foot radius of the subject site on October 31, 2018 (Attachment 7). As of the preparation of this staff report, staff has not received any correspondence from the public on the proposed project.

**CONCLUSION**

The proposed use is consistent with the allowed uses and development standards of the Pomona Corridor Specific Plan. The applicant has met with the Home Owner's Association of the subject site and received supporting letter with conditions of the proposed modification of CUP. Based on staff's analysis of the issues, the proposed use, as conditioned, will be compatible with the adjacent land uses and will not result in any negative impacts to the surrounding area with the recommended operating conditions.

Respectfully Submitted By:

Prepared By:

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Development Services Director

Lynda Lara  
Assistant Planner

**ATTACHMENTS:**

- 1) Draft Resolution for Conditional Use Permit (CUP 10790-2018)
- 2) Applicant's Restaurant Narrative
- 3) CUP 06-005 & CUPM 06-005 Staff Report without attachments
- 4) Resolution Nos. 06-016 and 09-015
- 5) Location Map and Aerial Photograph



101 W. Mission Blvd. #101

CUP 10790-2018

Page 9 of 9

- 6) HOA Letter
- 7) Public Hearing Notice and Radius Map
- 8) Project Plan Reductions