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# CITY OF POMONA

## PLANNING COMMISSION REPORT

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**DATE:** March 13, 2019

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

**FROM:** Planning Division

**SUBJECT:** **MODIFICATION OF CONDITIONAL USE PERMIT (CUP 11416-2019) AND REVOCATION OF CONDITIONAL USE PERMIT (CUP 05-054):**

A request for Modification of Conditional Use Permit (CUP 11416-2019) to allow for a 2,167 square foot expansion in floor area for the sale of beer and wine for on-site consumption in conjunction with a restaurant (Pomona Pizza Co.) that is located at 46 Rio Rancho Road, Suite 101 & 102; and Revocation of Conditional Use Permit (CUP 05-054) to construct a one-story 5,745 square foot gas station with a car wash, food mart, and lube bay, in the Pomona Ranch Plaza within the Activity Center of the Phillips Ranch Specific Plan Area.

### STAFF RECOMMENDATION

The Planning Division recommends that the Planning Commission adopt the attached PC Resolution (Attachment 1) approving Modification of Conditional Use Permit (CUP 11416-2019), subject to conditions. Staff further recommends that the Planning Commission adopt the attached PC Resolution (Attachment 2) approving Revocation of Conditional Use Permit (05-054), subject to findings.

### PROPERTY & APPLICANT INFORMATION

<b>Address</b>	46 Rio Rancho Road, Suite 101 & 102
<b>Assessor's Parcel Number (APN)</b>	8708-028-006
<b>Lot Size</b>	39,698 SF (0.911 Acres)
<b>General Plan Land Use Designation</b>	Activity Center-Regional Center
<b>Zoning District</b>	Activity Center in the Phillips Ranch Specific Plan
<b>Historic District</b>	N/A
<b>Specific Plan</b>	Phillips Ranch Specific Plan
<b>City Council District</b>	District 5 – Steve Lustro
<b>Applicant</b>	Art Rodriguez & Associates for Pomona Pizza Co.
<b>Property Owner</b>	Rio Rancho Argyle, LLC

## RELATED ACTIONS

<b>Historic Preservation Commission</b>	N/A
<b>Code Enforcement</b>	<b>04/24/2017</b> Code case for overgrown vegetation on a vacant lot. Closed, 06/07/2017.
<b>Planning</b>	<b>04/26/2006</b> Approved CUP 05-054, for construction of a one-story 5,745 SF, gas station with car wash. <b>03/07/2017</b> Approved CUP 7029-2017, for construction of a new 6,114 SF, one story commercial building. <b>03/01/2017</b> Approved CUP 6979-2017 for on-sale of beer and wine in connection with a bonafide restaurant.

## PROJECT DESCRIPTION

The applicant, Art Rodriguez & Associates for Pomona Pizza Co., is requesting a modification to a Conditional Use Permit (CUP 11416-2019) to allow a 2,167 square foot expansion in floor area for the sale beer and wine (Type-41 ABC license) for on-site consumption in conjunction with a restaurant, Pomona Pizza Company. On June 14, 2017, the Planning Commission approved a Conditional Use Permit (CUP 6979-2017) 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 occupying 2,509 square feet of a 6,114 square foot multi-tenant commercial building. The applicant now proposes to merge the previously approved (2,509 square foot) tenant space with the proposed addition (2,167 square feet), bringing the total restaurant floor area to 4,676 square feet. The subject site is a 39,698 square foot (0.911 acres) parcel located at 46 Rio Rancho Road, Suite 101 & 102, within the Pomona Ranch Plaza in the Activity Center of the Phillips Ranch Specific Plan (PRSP). (Attachment 3)

The proposed entire 4,676 square foot interior floor area is comprised of a main dining area, food preparation and cooking area, walk-in-cooler, changing area, washing area, office area, utilities and storage areas, restrooms, and a video game area along the south wall. Pomona Pizza Co. is a bonafide restaurant where patrons place orders for food and drinks at the counter and a ticket number is called out for customers to come to the counter to pick up their order. There will be no bar for alcohol service provided and there will be no dancing or entertainment of any kind within the establishment.

The main dining area is characterized by an open floor plan with tables and chairs for dining with three entrances to the restaurant on the east side. The applicant is proposing to store wine under the service counter and beer in the back near the walk-in-coolers. All orders of alcoholic beverages will be served by restaurant employees with no direct access by patrons. The restaurant's point-of-sale register system will automatically prompt staff to check for identification for all alcohol sales. (Attachment 4)

Pizza Co.'s have been in business for over 20 years with eight locations, including Hacienda Heights, Chino Hills, Duarte, Monrovia, East Los Angeles, La Verne, Sierra Madre and Pasadena. The Hacienda Heights and Chino Hills locations are currently the only other locations serving beer and wine. The applicant anticipates having a total of six to eight employees working per shift. The restaurant will be open from 11:00 a.m. to 9:00 p.m. Sunday through Thursday and from 11:00 a.m. to 10:00 p.m. Friday and Saturday. Alcohol service will take place during all hours of operation as allowed by the Department of Alcohol Beverage Control (ABC). Based on discussions with the Pomona Police Department, this location does not pose any policing or neighborhood compatibility problems.

As part of this requested modification, the Planning Division also seeks to revoke a previously approved Conditional Use Permit (05-054) for the construction of a one story 5,745 square foot, Gas Station with car wash, food mart, and lube bay. The permit was approved by the Planning Commission in 2006 but was not executed by the previous owner.

### 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 100 square feet of gross floor area (of alcohol sales).
- 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 USES

The properties to the north, east, south and west of the subject site are all within the PRSP area. The following table summarizes the surrounding land uses, zoning and general plan designations for Planning Commission consideration. Additionally, a photo brochure map of the subject site and surrounding land uses is provided (Attachment 5).

**Table 1.** *Land Use Summary*

	Existing Land Use	Zoning Designation	General Plan Designation
<b>Subject Site</b>	<b>Commercial</b>	<b>PRSP – Activity Center</b>	<b>Activity Center</b>

	Existing Land Use	Zoning Designation	General Plan Designation
East	Commercial (Walmart Parking Lot)	PRSP – Activity Center	Activity Center
North	Commercial (Sonic Drive-In)	PRSP – Activity Center	Activity Center
South	Commercial (IHOP, Bank of America)	PRSP – Activity Center	Activity Center
West	Single-Family Residences	PRSP – Single Family Residential	Residential Neighborhood

## ANALYSIS

### Undue Concentration

The State Department of Alcoholic Beverage Control (ABC) defines undue concentration if *either* the threshold of available on-sale licenses in the designated census tract is exceeded or if the crime reporting district is “high crime.”

According to the guidelines established by ABC, a total of six on-sale licenses are allowed in the subject Census Tract No. 4033.18 before the tract is deemed to have undue concentration. Currently, there are two establishments with on-sale alcohol licenses in the subject Census Tract. The approval of an additional on-sale alcohol license would add a third license, which is below the number of allowed on-sale licenses in the Census Tract (Table 2). Additionally, a map showing the locations of existing on-sale licenses in the subject Census Tract and adjoining Census Tract is provided for the Commission’s consideration (Attachment 6).

**Table 2.** *ABC Data on Alcohol Licenses in Census Tracts*

	Existing Licenses	Allowed Licenses
	On-sale	On-sale
Subject Census Tract 4033.18	2	6
Adjoining Census Tract 4030.00 (East)	3	6

The threshold for designating a district “high crime” is 149 crimes. The subject site is located in Police Reporting District No. 73, which experienced a total of 248 Part I Offenses and Part II Arrests (Table 3). Therefore, the district is considered “high crime.” A map showing the location

of Police Reporting District No. 73 and adjacent districts is provided for the Commission's consideration (Attachment 7).

**Table 3. Police Reporting District Data**

	Police Reporting District	Part I Offenses and II Arrests (2015)
Subject Census Tract 4033.18	73	248*
Adjoining Census Tract 4030.00 (East)	83	349*

\* Indicates High Crime Area

As the police reporting district for the proposed request is "high crime," there is undue concentration. Therefore, a finding of public convenience or necessity will be required. For Type 41 on-sale restaurant licenses, this finding may be made by ABC instead of Pomona City Council.

## ISSUE ANALYSIS

### 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, houses of worship, and parks have been evaluated in the area. The following tables delineate the distance between the restaurant and neighboring sensitive uses:

Residential	Distance from restaurant
Single family	117' (north)
Multi family	.26 miles (southwest)

Schools	Distance from restaurant
Lexington Elementary School	.44 miles (northeast)
Garey High School	.56 miles (northeast)

Parks	Distance from restaurant
Martin Luther King Jr. Park	.45 miles (northeast)
Phillips Ranch Park	.8 miles (northwest)

The proposed use is across the street from a single-family residential neighborhood within the PRSP Area. However, all other sensitive uses are sufficiently removed from the proposed project. The potential for detrimental impacts will be reduced because alcohol will be served in a controlled environment and the hours of operation will extend to no later than 10:00 p.m. on Fridays and Saturdays, and no later than 9:00 p.m. all other nights. Furthermore, the use will be conditioned to avoid any other potential impacts on surrounding sensitive uses. A map showing location of sensitive uses adjacent to the subject site is provided for the Commission's consideration (Attachment 8).

## **GENERAL PLAN CONFORMITY**

The General Plan land use map designates the subject site as Activity Center-Regional Center. Due to its high visibility from the SR-71 and SR-60 interchange, the General Plan envisions this area for further intensification to accommodate regional activity. It specifies that retail investment should be concentrated in "centers" clustered at crossroads that satisfy investor preferences and target the local community; and that the form of new retail development shall not negatively impact the character of surrounding districts or neighborhoods (Goals 6A.G1 and 6A.G2). The project is consistent with the General Plan as it supports the intensification of regional activity through the provision of a restaurant. The proposed restaurant is clustered with other similar uses in the existing Pomona Ranch Plaza Shopping Center, and is similar in scale and character with surrounding uses. Therefore, approval of the proposed Modification of Conditional Use Permit to allow a 2,167 square foot expansion in floor area for the sale of beer and wine for on-site consumption in conjunction with a restaurant would support the General Plan land use goals and policies.

## **ENVIRONMENTAL REVIEW**

In accordance with the California Environmental Quality Act (CEQA) guidelines, the proposed project is categorically exempt under Article 19, Section 15301 (Class 1 - Existing Facilities), because the proposed project will utilize existing structures with only minor interior alterations and no exterior modifications.

## **PUBLIC COMMUNICATIONS**

A copy of the public hearing notice was published on March 2, 2019 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 February 28, 2019. (Attachment 9) 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 Activity Center of the PRSP and the Zoning Ordinance. Based on staff's analysis of the issues, the on-sale alcohol sales modification, 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.

Respectfully Submitted By:

Prepared By:

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**ATTACHMENTS:**

- 1) Draft PC Resolution Approving CUP 11416-2019
- 2) Draft PC Resolution Approving Revocation of CUP 05-054
- 3) Location Map & Aerial Photograph
- 4) Project Plans Reductions (8-1/2" x 11")
- 5) Photo Brochure for 46 Rio Rancho
- 6) Exhibit of On-sale ABC licenses in Census Tracts 4033.18
- 7) Exhibit of Police Reporting Districts
- 8) Exhibit of Sensitive Uses
- 9) 400-foot Radius Map & Public Hearing Notice

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