



CITY OF POMONA

PLANNING COMMISSION REPORT

DATE: February 12, 2020

TO: Chairman and Members of the Planning Commission

FROM: Planning Division

SUBJECT: **CONDITIONAL USE PERMIT (CUP 013191-2019):**

Request to modify an existing Conditional Use Permit to permit the sale of alcohol in conjunction with a restaurant with live entertainment (Type 47 ABC License), including within designated outdoor dining areas and additional interior gross floor area.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt the attached PC Resolution (Attachment 1) approving Modification of Conditional Use Permit (CUP 013191-2019), subject to conditions.

PROJECT/APPLICANT INFORMATION

PROPERTY & APPLICANT INFORMATION

Address	300 South Thomas Street/184 West Third Street ("Mariscos La Reina")
Assessor's Parcel Number (APN)	8341-005-021
Lot Size	14, 279 square feet (0.33 acres)
General Plan Land Use Designation	Transit-Oriented District: Core
Zoning District	Downtown Pomona Specific Plan Mixed-Use Central Business District (MU-CBD)
Historic District	N/A
Specific Plan	Downtown Pomona Specific Plan
City Council District	District 2
Applicant	John Peña
Property Owner	Catherine Tessier

RELATED ACTIONS

Historic Preservation Commission	N/A
Code Enforcement	No active cases related to this action.
Planning	9/24/2008 Conditional Use Permit (CUP 08-027) to sell beer, wine, and distilled

	spirits for on-site consumption (Type 48 ABC License) and off-site consumption (Type 21 ABC License) (PC Resolution No. 08-046)
5/25/2011	Modification of Conditional Use Permit (MCUP 08-027) to add live entertainment and to expand and modify floor plan (PC Resolution No. 11-013)
8/24/2011	Modification of Conditional Use Permit (MCUP 08-027-02) to eliminate the sale of beer and wine for off-site consumption (PC Resolution No. 11-027)
6/25/2014	Modification of Conditional Use Permit (MCUP 08-027-03) to allow 2,860 square foot expansion and an exterior entrance to the basement level (PC Resolution No. 14-036)
8/23/2018	Modification of Conditional Use Permit (Administrative Review) to allow a full-service restaurant on the ground level, cease Type 21 ABC License, downgrade Type 48 ABC License to Type 47 ABC License for a bona fide eating establishment; and access to basement level nightclub restricted to ages 21 and over.

PROJECT DESCRIPTION & BACKGROUND

The applicant is proposing modifications to an existing Conditional Use Permit (CUP) for the sale of alcohol in conjunction with a restaurant with live entertainment (Type 47 ABC License) on a property located in the Mixed-Use Central Business District of the Downtown Pomona Specific Plan (Attachment 2). The modification would permit on-sale alcohol in conjunction with the restaurant and live entertainment, including an expanded interior gross floor area and outdoor dining area.

The subject bona-fide restaurant, “Mariscos La Reina,” opened in 2019, on the first floor of the subject property, and “The Basement,” an ancillary live entertainment arm of the business, opened on the basement level. The first floor plan is comprised of approximately 3,000 square feet of interior floor area, set-up with tables, chairs, full-service bar with barstool seating, kitchen, outdoor dining patios, and a basement. The proposed expansion in first floor plan includes approximately 400 square feet of a new kitchen in the southeast corner of the restaurant, which previously had connected the first floor to the prior nightclub, and two outdoor dining patios, which have been reviewed under a separate Outdoor Dining Permit (ODP 12344-2019). The basement floor plan is comprised of approximately 3,000 square feet of interior floor area, set-up with a stage, dance floor, bar, and green room. Alcohol will be consumed by patrons within the interior floor area and outdoor dining area. All orders of alcoholic beverages will be served by restaurant employees (servers), with no direct access by patrons.

The restaurant operates seven days a week during the following hours:

Sunday	11 a.m. to 2 a.m.
Monday	4 p.m. to 10 p.m.
Tuesday	4 p.m. to 10 p.m.
Wednesday	4 p.m. to 10 p.m.
Thursday	4 p.m. to 10 p.m.
Friday	4 p.m. to 2 a.m.
Saturday	11 a.m. to 2 a.m.

The live entertainment venue operates three days a week during the following hours:

Friday	9 p.m. to 2 a.m.
Saturday	9 p.m. to 2 a.m.
Tuesday	8 p.m. to 2 a.m.

The subject property was first entitled for alcohol sales in 2008 under Conditional Use Permit (CUP 08-027) to sell beer, wine, and distilled spirits for on-site consumption (Type 48 ABC License) and off-site consumption (Type 21 ABC License) (PC Resolution No. 08-046), in conjunction with Vive Tequileria and Night Club. This entitlement subsequently underwent three modifications:

5/25/2011	Modification of Conditional Use Permit (MCUP 08-027) to add live entertainment and to expand and modify floor plan (PC Resolution No. 11-013)
8/24/2011	Modification of Conditional Use Permit (MCUP 08-027-02) to eliminate the sale of beer and wine for off-site consumption (PC Resolution No. 11-027)
6/25/2014	Modification of Conditional Use Permit (MCUP 08-027-03) to allow 2,860 square foot expansion and an exterior entrance to the basement level (PC Resolution No. 14-036)

In 2018, the property owner requested a fourth modification to downgrade the alcohol license to a Type 47 ABC License in conjunction with a bona-fide restaurant, as Vive ceased operations as both a tequileria and a nightclub. Since the proposed action represented a reduced intensity in land use, the modification was granted administratively (Attachment 3). Under this modified entitlement, the subject property briefly operated as “Big D’s Family Restaurant,” which closed in 2019.

The proposed action represents a clean-up to entitle the subject property with a Type 47 ABC License through a CUP, and to also include outdoor dining and an expanded floor plan designed for a full-service restaurant with ancillary live entertainment. The conditions of approval have been drafted to reflect similar conditions brought forth by the Planning Division for other bona-fide restaurants serving alcohol. These conditions include regulations related to hours of operation, security, graffiti abatement, the sale of alcohol, advertisement, and noise.

APPLICABLE CODES

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. As the proposed action represents a modification to an existing entitlement for alcohol sales, and does not represent any net increase, decrease, or modification in the type of alcohol license authorized, the Planning Division has not analyzed the action for potential undue concentration or proximity to sensitive uses. Moreover, the Downtown Pomona Specific Plan does not require off-street parking to be provided for the first two floors of any property located in the MU-CBD district; therefore, such regulations are not applicable.

SURROUNDING LAND USES

The properties to the north, east and south of the project site are zoned Downtown Pomona Specific Plan Mixed-Use Central Business District (MU-CBD). The following table summarizes the surrounding land uses, zoning and General Plan designations for Planning Commission consideration.

Table 1. Land Use Summary Table

	Existing Land Use	Zoning Designation	General Plan Designation
Subject Site	Commercial Restaurant	DPSP MU-CBD	Transit Oriented District: Core
North	Anderson Building (Chase Bank, Western University, Parking)	DPSP MU-CBD	Transit Oriented District: Core
South	Progress Building (Work-Live Lofts)	DPSP MU-CBD	Transit Oriented District: Core
East	Fox Theater	DPSP MU-CBD	Activity Center

West	Various Commercial Uses w/ Parking Lot	DPSP MU-CBD	Transit Oriented District: Core
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ZONING ORDINANCE COMPLIANCE

Staff has evaluated the proposed project and has determined that the request is in compliance with the Pomona Zoning Ordinance. The proposed Type 47 Alcohol License (on-sale general) in conjunction with an existing bona-fide restaurant is a conditionally permitted use within the Downtown Pomona Specific Plan Mixed-Use Central Business District. 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 subject site or surrounding area.

GENERAL PLAN CONFORMITY

The proposed project is located within the “Transit Oriented District Core” land use designation under the Pomona General Plan. The project conforms to the goals and policies found in the Plan, specifically to “*ensure that transit oriented districts are walkable, active, and well integrated into surrounding City districts and neighborhoods*” (Goal 6B.G4), as the proposed action would further activate the public right-of-way along Third Street, and “*provide additional entertainment and cultural venues within the Arts District.*” (Policy 6B.P8).

ENVIRONMENTAL ANALYSIS/DETERMINATION

Upon submittal of the project, staff reviewed the proposed development project in accordance with the California Environmental Quality Act (CEQA) guidelines. After examining the proposed project, staff determined that the project is Categorically Exempt under Section 15301, Class 1 (Existing Facilities) of CEQA, in that the proposed project is an insignificant modification to an existing facility.

PUBLIC COMMUNICATIONS

A copy of the public hearing notice was published in the Inland Valley Daily Bulletin and was sent to all property owners and occupants of surrounding properties within a 400-foot radius of the subject site on January 30, 2020 (Attachment 5). As of the date of this staff report, staff has not received any correspondence either for or against the proposed project.

CONCLUSION

The proposed project meets the development standards of the Pomona Zoning Ordinance. Based on staff’s analysis of the issues, the proposed development will be compatible with the adjacent land uses and will not result in any negative impacts to the surrounding area.

RECOMMENDED MOTION

Staff recommends the following motion:

- Move that the Planning Commission close the public hearing, find that the project is categorically exempt pursuant to State and Local CEQA guidelines, and approve the modification to Conditional Use Permit (CUP 013191-2019) per staff's recommendation, subject to the findings and conditions included in the draft resolution.

Respectfully Submitted:

Gustavo N. Gonzalez, AICP
Planning Manager

Prepared by:

Ata Khan
Senior Planner

ATTACHMENTS:

- 1) Draft PC Resolution
- 2) Location & Aerial Photograph
- 3) Administrative Review Modification of CUP
- 4) PC Resolution No. 14-036
- 5) Radius Map & Public Hearing Notice
- 6) Project Plans