



CITY OF POMONA

PLANNING COMMISSION REPORT

DATE: October 27, 2021

TO: Chairman and Members of the Planning Commission

FROM: Planning Division

SUBJECT: **CONDITIONAL USE PERMIT (CUP 016572-2021):**

A request to Modify Conditional Use Permit No. 95-001 and supersede with Conditional Use Permit No. 016572-2021 to allow for a Type-41 Alcohol License (on-sale beer and wine) for on-site consumption in conjunction with an existing full-service restaurant located in a commercial shopping center.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt the attached Resolution (Attachment 1) approving Conditional Use Permit (CUP 016572-2021), subject to conditions.

RECOMMENDED 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 Conditional Use Permit (CUP 016572-2021) per staff’s recommendation, subject to the findings and conditions included in the draft resolution.”

EXECUTIVE SUMMARY

The applicant is requesting a Conditional Use Permit (CUP 016572-2021) to reestablish a Type-41 alcohol license (on-sale beer and wine) in conjunction with an existing full-service bona-fide restaurant, on a property located in the City Gateway Segment of the Pomona Corridors Specific Plan (PCSP). The proposed project meets the development standards of the PZO. The conditions of approval have been drafted to reflect similar conditions brought forth by the staff 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. Based on staff’s analysis of the issues, the continued operation of the existing full-service restaurant with on-sale alcohol sales is compatible with the adjacent land uses and will not result in any negative impacts to the surrounding area.

PROPERTY & APPLICANT INFORMATION

Address	1087 E. Holt Avenue
Assessor's Parcel Number (APN)	8323-016-021
Lot Size	135,007 SF (+/- 3.01 Acres)
General Plan Land Use Designation	Neighborhood Edge
Zoning District	Pomona Corridors Specific Plan (PCSP) – City Gateway Segment
Historic District	N/A
Specific Plan	Pomona Corridors Specific Plan
City Council District	District 4 – Elizabeth Ontiveros-Cole
Applicant	David Perez
Property Owner	Han – Pomona Square, LLC

RELATED ACTIONS

Historic Preservation Commission	None.
Code Enforcement	No active cases related to this action.
Planning	<p>08/23/1989 Approved Environmental Clearance (Resolution 7159) for CUP.</p> <p>08/23/1989 Approved CUP (Resolution 7160) to develop a shopping center within the C-4-S district.</p> <p>03/28/1990 Approved a lot line adjustment (Resolution 7355) at 1111-1137 E. Holt Avenue.</p> <p>09/25/1991 Approved CUP (Resolution 7725) to allow off-sale beer & wine.</p> <p>09/25/1991 Approved Variance (Resolution 7725) to reduce off-street parking requirements in C-4 zone.</p> <p>12/18/1992 Approved CUP (Resolution 7798) for off-sale beer and wine on property at 1093 E. Holt Avenue.</p> <p>12/19/1992 Approved Variance (Resolution 7799) for off-street parking requirements to allow 72 spaces instead of 180 parking spaces on property known as 1093 E. Holt Avenue.</p> <p>03/22/1995 Approved Variance (Resolution 8325) to allow 182 parking spaces instead of 200 parking spaces as required at property known as 1087 East Holt Avenue.</p> <p>03/22/1995 Approved CUP (Resolution 8326) to allow on sale beer and wine within a bona fide restaurant located in the C-4 at 1087 E. Holt Ave.</p> <p>03/22/2000 Approved Modification to CUP</p>

(Resolution 8747) to allow an additional 3,500 square feet of office use on property
03/22/2000 Approved Modification of Variance (Resolution 8762) to allow 190 spaces instead of the code required 214 parking spaces on the property located at 187 E. Holt Avenue.

PROJECT DESCRIPTION & BACKGROUND

The applicant, David Perez, is requesting a Conditional Use Permit (CUP 016572-2021) to reestablish a Type-41 alcohol license (on-sale beer and wine) in conjunction with an existing full-service bona-fide restaurant, on a property located in the City Gateway Segment of the Pomona Corridors Specific Plan (PCSP) (Attachment 2).

Existing Site Conditions

The existing structure containing the restaurant and adjacent retail tenant space was constructed as part of the larger shopping center in 1991 and consists of a single-story structure with approximately 5,300 square feet of gross floor area. The building façade remains largely in its original state based on building permit history, with the exception of signage and some interior remodeling throughout the years. The tenant space has been continuously occupied by a restaurant since opening with a few periods of vacancy.

Existing Conditional Use Permit

In 1995, a Conditional Use Permit was issued to allow a Type 41 alcohol license (on-sale beer and wine) in conjunction with a bona fide restaurant on the subject site with a condition that the sale of beer remain as an incidental part of the restaurant. A series of restaurants remained in operation over time in the tenant space with an active Type 41 alcohol license until 2007 when the license was transferred to another establishment outside of the City and the active license for the subject site was cancelled. The existing restaurant, “Dana Gourmet Café,” opened in December of 2020 and involved minor tenant improvements including installing new kitchen equipment and modifying the bathrooms to comply with American Disability Act (ADA) requirements.

Modification Request

As part of the request for modification of the CUP to allow for the reestablishment of the alcohol license, the applicant proposes to continue to serve alcohol for consumption only within the existing interior floor area of the restaurant. All orders of alcoholic beverages will be served by restaurant employees, with no direct access by patrons (Attachment 4). Furthermore, there are proposed changes in the floor plan referenced in the original CUP (95-001) approved in 1995 (Attachment 3). These changes include the expansion of seating area through the removal of a karaoke stage; and the conversion of part of the kitchen to accommodate a bar and additional seating. The applicant is also requesting removal of a condition specifically pertaining to parking space

requirements and is proposing a modification to the hours of operation as follows: 11:00 A.M. to 8:00 P.M. from Tuesdays to Fridays, 8:00 A.M. to 9:00 PM on Saturdays, and 8:00 A.M. to 8:00 P.M. on Sundays. These changes, taken together, require a modification to the original CUP approved by the Planning Commission in order to set new conditions.

APPLICABLE CODES

The Pomona Corridors Specific Plan allows eating and drinking establishments with alcohol in the City Gateway Segment with a Conditional Use Permit. As the proposed project requires a modification of the original entitlement, a new Conditional Use Permit is required per Sec .580 of the Pomona Zoning Ordinance.

SURROUNDING LAND USES

The properties to the north, east and south of the project site are zoned Pomona Corridors Specific Plan – City Gateway Segment. 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	Dana Gourmet Café	PCSP – City Gateway Segment	Neighborhood Edge
North	Multi-Family Residential	PCSP – City Gateway Segment	Residential Neighborhood
South	“Fountain of Love Christian Center” (House of Worship)	PCSP – City Gateway Segment	Workplace District Edge
East	“La Tia Restaurant & Taqueria”	PCSP – City Gateway Segment	Neighborhood Edge
West	“Central Auto Care” (Mechanic)	PCSP – City Gateway Segment	Neighborhood Edge

ANALYSIS

Zoning Ordinance Compliance

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 full-service restaurant.

- 1) **Off Street Parking:** One parking space shall be provided for each four persons of occupancy load as defined in the Uniform Building Code, City of Pomona for on-sale alcohol establishments. *Note: The Pomona Corridors Specific Plan – City Gateway Segment requires a minimum of 4 parking spaces per 1,000 s.f. with a maximum of 10 parking spaces per 1,000 s.f.; therefore, the specific plan parking requirement takes precedence and the project complies. Additionally, the removal of a condition related to parking in the existing CUP can be supported.*
- 2) **Parking Lot:** Parking lots, including landscaping and lighting, shall be installed and maintained per city standards. *This is not applicable for this project as the restaurant and use is entirely within the footprint of the existing building and tenant space.*
- 3) **Area Compatibility:** The proposed on-sale liquor establishment shall be compatible with existing development in the area. *The use of a full service restaurant with on-sale beer and wine is a use that is compatible with the commercial shopping center site and retail and commercial service establishments along Holt Avenue. There has also been a full service restaurant with on-sale beer and wine on this site previously, therefore the project is compatible and complies.*
- 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. *The project will not be detrimental to any sensitive use as the impact of the proposed project will be minimal as the alcohol will be served in an interior controlled environment and will be an ancillary use to the bona fide restaurant; therefore the project complies.*

Staff has evaluated the proposed project and has determined that the request is in compliance with the Pomona Zoning Ordinance (PZO). The proposed license type from Type 41 Alcohol License (on-sale beer and wine) in conjunction with an existing full-service bona fide restaurant is a conditionally permitted use within the Pomona Corridors Specific Plan – City Gateway Segment. The proposed project conforms to the PZO and applicable specific plans, including requirements related to parking. Though the PZO requires a particular parking ratio based on building occupancy, the Pomona Corridors Specific Plans – City Gateway Segment sets current parking standards for uses on this property. The Los Angeles County Fire Department is responsible for determining building occupancy separately. The City Gateway Segment requires a minimum of four spaces per 1,000 square feet of gross leasable area of the use. The tenant space is approximately 4,000 square feet and would need a total of sixteen parking spaces. There are a total of 180 shared parking spaces on the subject property which exceeds the minimum number of spaces required by the shopping center as a whole per the current standards set in the City Gateway Segment. Therefore, the granting of this CUP will not adversely affect the subject site or surrounding area.

Undue Concentration

The State Department of Alcoholic Beverage Control (ABC) defines undue concentration as either exceeding the threshold of available on-sale licenses in the designated census tract or the crime-reporting district is designated as “high crime.” According to the guidelines established by

ABC, a total of six (6) on-sale licenses are allowed in the subject Census Tract No. 4027.02 before the tract is deemed to have undue concentration. Currently, there are three (3) establishments with on-sale alcohol licenses in the census tract; “Luizon Sushi Y Mariscos” restaurant, “SJ Restaurant,” and “Isla del Pacifico” restaurant. A map showing the number and location of all active on-sale ABC licenses within the Census Tract is provided for Commission consideration (Attachment 5).

Table 2. *ABC Data on On-Sale Alcohol Licenses in Census Tract 4021.02*

Census Tract	Existing On-Sale Licenses	Allowed On-Sale Licenses
Subject Census Tract 4021.02	3	6

The threshold for designating a district “high crime” is 98 crimes. Due to the year 2020 being the first year of the pandemic, the threshold is lower than previous years. The subject site is located in Police Reporting District No. 14, which experienced a total of 319 Part I Offenses and Part II Arrests (Table 3). Therefore Police Reporting District No. 14 is classified as a high crime district.

Table 3. *Police Reporting District Data (2020)*

Census Tract	Police Reporting District	Part I Offenses and II Arrests
Subject Census Tract 4027.02	14*	319
	15	49
	98*	138
	99*	293

* Indicates High Crime Area

As the police-reporting district for the proposed request is “high crime” district there is an undue concentration in the area. Therefore, a finding of Public Convenience or Necessity (PCN) 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 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 (Table 4).

Table 4. Sensitive Uses

Type	Sensitive Use	Distance PL to PL	Distance Bldg. to Bldg.
Residential	Single Family Homes	64 ft.	170 ft.
Residential	Multifamily Residences	60 ft.	195 ft.
House of Worship	Fountain of Love Christian Center	103 ft.	250 ft.
House of Worship	St. Madeleine Catholic Church	1,335 ft. (0.25 miles)	1,520 ft. (.29 miles)
House of Worship	Cursillo House	1,125 ft. (0.21 miles)	1,585 ft. (0.30 miles)
School	Village Academy High School Park West High School School of Extended Educational Options	1,100 ft. (0.21 miles)	1,590 ft. (0.30 miles)
School	St. Madeleine Elementary School	1,480 ft. (0.28 miles)	1,670 ft. (0.32 miles)
School	San Antonio Elementary School	1,960 ft. (0.37 miles)	2,360 ft. (0.45 miles)
Park	Garfield Park	1,360 ft. (0.26 miles)	1,370 ft. (0.26 miles)

In this case, the bona fide restaurant at this location has operated with a Type 41 (on-sale beer and wine) alcohol license in the past from 1991 through 2007. There are existing single-family residential uses located northwest across the street of the subject property and to the north of the vicinity of the subject property. The restaurant and shopping center were developed in 1991, after the single-family residential uses to the north and northwest of the subject property were developed. Directly across Holt Avenue from the property is a house of worship, the Fountain of Love Christian Center. The Village Academy High School is located approximately 0.3 miles east. St. Madeleine Elementary School and the San Antonio Elementary School are located to the northeast are approximately .3 miles and .4 miles away respectively. Garfield Park and the Garfield Park Neighborhood Center is located approximately 0.25 miles east on Holt Avenue. The impact of the proposed project on these uses will be minimal because alcohol will be served in an interior controlled environment with conditions that address site security and will be an ancillary use to the bona fide restaurant.

Conditions of Approval

The conditions of approval have been drafted to reflect similar conditions brought forth by the staff 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. For hours,

Staff recommends deferring to ABC regulations to enable flexibility for restaurants in setting hours as business needs change.

GENERAL PLAN CONFORMITY

The project site is located within the “Neighborhood Edge” land use designation under the Pomona General Plan. The project conforms to the goals and policies found in the General Plan, specifically to “*promote the success and improvement of existing corridor development*” (Goal 6D.G4), as the proposed action would aid the success of the restaurant, and would continue to support existing commercial strip development (Policy 6D.P7).

ENVIRONMENTAL DETERMINATION

Staff has reviewed the proposed development project in accordance with the California Environmental Quality Act (CEQA) guidelines and determined that the project is Categorically Exempt from CEQA, under Section 15301, Class 1 (Existing Facilities) in that the proposed project within an existing restaurant with no proposed expansions.

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 October 15, 2021 (Attachment 6). As of the date of this staff report, staff has not received any correspondence in opposition or support of the proposed project.

Respectfully Submitted:



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Prepared by:

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ATTACHMENTS:

1. Draft PC Resolution
2. Location & Aerial Photograph
3. Conditional Use Permit (PC Resolution No. 8326)
4. Project Plans
5. Census Tract & Police District Exhibit
6. Radius Map & Public Hearing Notice
7. Site Photographs
8. Presentation Slides