



Claremont Planning Commission

Agenda Report

File #: 4371

Item No: 3.

TO: PLANNING COMMISSION

FROM: BRAD JOHNSON, COMMUNITY DEVELOPMENT DIRECTOR

DATE: SEPTEMBER 20, 2022

Reviewed by:
Finance Director: N/A

SUBJECT:

REQUEST FOR A CONDITIONAL USE PERMIT (FILE #22-C04), TO ALLOW FOR THE SALE OF A FULL-LINE OF ALCOHOLIC BEVERAGE (DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL TYPE-47 FULL LIQUOR LICENSE) IN CONJUNCTION WITH A BONA-FIDE EATING ESTABLISHMENT IN AN EXISTING RETAIL SPACE AND A NEW OUTDOOR DINING AREA OF 842-SQUARE FEET WITH A TOTAL OF 56 SEATS LOCATED AT 235 NORTH YALE AVENUE. APPLICANT - MARK FERNANDEZ (LA POPULAR RESTAURANT).

SUMMARY

Mark Fernandez, the applicant, has submitted an application for a Conditional Use Permit (CUP) to allow for the sale and service of a full-line of alcoholic beverages for on-site consumption (with a California Department of Alcoholic Beverage Control Type-47 liquor license) in conjunction with a new bona-fide eating establishment, La Popular, located at the subject property in the retail space formerly occupied by Rhino Records. The applicant has also proposed a new outdoor dining area of 842-square feet with 56 seats along the north side of the building where food and alcohol would also be served. CUP approval is required for outdoor seating areas that include more than a single row of tables along a business' frontage and/or those which are separated from the public right-of-way by a fence or wall.

Staff believes that all of the required CUP findings can be met by the project and that the new restaurant, with alcohol service and new outdoor area, will positively contribute to the dynamic mix of uses in the Claremont Village and add to the synergy. The applicant has proposed a thoughtfully designed restaurant concept operated by an experienced team that will anchor this prominent corner of the Village for Claremont's residents and visitors alike.

RECOMMENDATION

Staff recommends that the Planning Commission adopt A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CLAREMONT APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT (FILE #22-C04), TO ALLOW FOR THE SALE OF A FULL-LINE OF ALCOHOLIC

BEVERAGE (DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL TYPE-47 FULL LIQUOR LICENSE) IN CONJUNCTION WITH A BONA-FIDE EATING ESTABLISHMENT IN AN EXISTING RETAIL SPACE AND A NEW OUTDOOR DINING AREA OF 842-SQUARE FEET WITH A TOTAL OF 56 SEATS LOCATED AT 235 NORTH YALE AVENUE. APPLICANT - MARK FERNANDEZ (LA POPULAR RESTAURANT).

ALTERNATIVES TO RECOMMENDATION

In addition to staff's recommendation, the following alternatives have been identified:

- A. Continue the item for additional information; or
- B. Express an intent to deny CUP #22-C04 in its entirety, specifically identifying the findings of Sections 16.060.030.B and 16.303.040 of the CMC that cannot be met and continue the item to October 4, 2022 for adoption of a denial resolution.

FINANCIAL REVIEW

Costs associated with the review of this application have been borne by the applicant.

ANALYSIS

Background

The project site is a rectangular commercial property of approximately 15,776-square feet located at the southwest corner of North Yale and West Bonita Avenues. The property has a zoning designation of Claremont Village Overlay District (CVO) and a corresponding General Plan designation of Claremont Village (CV). Located in the heart of Village, uses adjacent to the subject site include 42nd Street Bagel and Viva Madrid to the south, and the Bonita Yale Plaza to the north across Bonita Avenue. The Union on Yale and House of Pong restaurants are located across Yale Avenue to the east of the subject site, while an alley abuts the subject property to the west, with a real estate office on the other side of the alley.

The site is developed with a well-maintained 6,800-square-foot, 1.5-story concrete block structure built in 1938. The property has long been owned by Bentley Family Trust and is listed in the City's Register of Sites of Historic or Architectural Merit. Although specific historic details or character-defining features are not noted in the Register, the structure is shown as a contributing building in the Architectural Quality Map of the Village Design Plan. The property was the longtime home of Rhino Records (along with Video Paradiso), which occupied the building from 1974 until this year, when the business moved locations.

The Claremont Municipal Code (CMC) requires that restaurants obtain approval of a CUP for on-site sales of alcohol in conjunction with food service (CMC Section 16.051.020). Pursuant to CMC Section 16.090.040 CUP approval is also required for private outdoor patio dining areas having more than a single row of tables along a business' building frontage.

Project Description

The applicant, Mark Fernandez, represents David Peters, the restaurant owner and building lessee, who is proposing to repurpose a portion of the historic Bentley Building to create a restaurant known

as La Popular Taqueria. La Popular is a chef-driven concept originating in the global gastronomic center of Mexico City that will be making its US debut in Claremont. The team behind the restaurant's US expansion has local roots, having owned and operated Eureka! Burger in the Claremont Heights Packing House since 2010. La Popular in Claremont will apply a chef-driven, adventurous approach to authentic Mexican cuisine where the food offerings will be complemented by a curated cocktail menu and selection of beers and wines. The restaurant will feature a highly-designed interior that takes inspiration modern Mexico City and features materials such as concrete wall tile, terra cotta floor tile, backlit smokey mirrors, subdued neon signature and ample greenery. (The proposed changes to the exterior of the building and the proposed signage are being reviewed concurrently by the City along with this CUP and will be reviewed by the Architectural Commission at one of their upcoming public hearings). La Popular's food and drink menu is provided as Attachment C and interior renderings are provided as Attachment D.

The below bullet points summarize La Popular's proposal for 235 N Yale Avenue:

- The sale and service of a full-line of alcoholic beverages for on-site consumption in conjunction with a bona-fide restaurant having a full-service kitchen
- 2,090-square foot interior dining area with 110 seats, including a centrally located 135-square foot bar with 22 bar seats
- New 842-square foot outdoor dining area with 56 seats (includes alcohol service)
- Hours of operation:
 - Monday-Friday: 11:00am - 1:00am
 - Saturday & Sunday: 10:00am - 1:00am
- Employees: 25-30 employees during busiest shifts (weekend dinner and brunch), Total hiring is anticipated to be 80 employees
- On-site parking: 20 on-site parking spaces (including one ADA space)

Outdoor Dining Area

An important component of La Popular's proposal is the new outdoor dining area, proposed to be located on the north side of the existing building at the property's Yale Avenue frontage. Located entirely on private property, the outdoor dining area would replace four existing angled parking stalls on the north side of the building. A low precision block wall and metal railing system will provide a barrier between the outdoor dining area and adjacent parking area and Yale Avenue sidewalk while also providing opportunities for planter areas. Such a barrier is required by California Department of Alcoholic Beverage Control (ABC) for outdoor alcohol service. The outdoor area would be directly accessible from the restaurant's indoor dining area as well as from Yale Avenue via a gate equipped with panic hardware. The outdoor dining area would feature a trellis covering with louvered openings allowing for the option of a solid covering to protect from the elements. Two feet of clearance is provided between western edge of the outdoor dining area and the adjacent parking space, and the patio features a chamfered corner to minimize the potential for conflicts with automobiles entering and exiting this parking space.

The site plan, indoor and outdoor floor plans, and elevations are included as Attachment B.

Parking

Unlike many restaurants in the Claremont Village, La Popular's parking requirement would be able to be satisfied entirely by on-site parking in the existing lot, which would have a total of 20 spaces after

the establishment of the outdoor dining area. Pursuant to CMC Section 16.060.030.A, the parking requirement for restaurants in the CVO District is one parking space for each 150 square feet of net indoor area and one parking space for each 200 square feet of net outdoor dining area. This results in a parking requirement of 14 parking spaces for the 2,090-square feet of indoor area (not including the bar and kitchen areas), and 4 spaces for the 842-square foot outdoor dining area for a total of eighteen spaces required for the proposal use as a whole. In addition to the 20 on-site parking spaces, the subject property has a non-conforming parking credit of four spaces that may be used to satisfy the parking requirements associated with the currently vacant tenant space adjacent to the proposed La Popular (the former Video Paradiso space) and the Bentley Building's currently vacant mezzanine spaces. When the CV District was adopted in 1975, parcels with existing buildings that had insufficient parking to meet the new code were granted non-conforming parking credits. The parking credits were determined by the existing uses at the time of the zone change. The minimum credit per building was two spaces and the maximum was 10 spaces. As noted above, the subject property was granted four parking space credits.

While the restaurant's Code-required parking requirement is satisfied by available on-site parking spaces, the operator recognizes the high demand for parking in the Village during evenings and weekends. In recognition of this, the operator will require employees to park in the remote satellite lot located near the intersection of Grinnell Drive and Bonita Avenue, located less than 500-feet away from the subject property to the west along Bonita Avenue. This lot was purchased by the City and has always been intended for overflow parking for Village merchants and their employees. Section 3.L in the draft approval resolution (Attachment A) memorializes this requirement for La Popular's employees and helps allocate parking for La Popular's customers and other visitors to the property.

BASIS FOR RECOMMENDATION

The approval of a CUP requires that the Planning Commission make certain findings as set forth in Section 16.303.040 of the CMC. Staff has determined that all the findings can be made to allow the on-site sale of alcohol and incidental outdoor seating for La Popular as identified in the draft resolution (Attachment A). Staff believes that La Popular will be a positive addition to the vibrant mix of uses found in the Claremont Village and that it will contribute to its synergy. Staff finds that with a strong restaurant concept and a proven operational team, La Popular will be able to anchor this prominent Village corner for the benefit of Claremont residents and visitors alike. Staff is also supportive of the outdoor dining area, finding that it will further activate the Claremont Village core with pedestrian activity and eyes on the street.

CEQA REVIEW

The Community Development Director has determined that the project under review is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1) for existing facilities, in that the project entails the continued leasing of an existing tenant space involving a negligible expansion of use beyond that which currently exists. Therefore, no further environmental review is necessary.

PUBLIC NOTICE PROCESS

The agenda and staff report for this item have been posted on the City website and distributed to interested parties. If you desire a copy, please contact Nhi Atienza at natienza@ci.claremont.ca.us.

On Thursday, September 8, 2022 the property was posted and written notices were mailed to

property owners within 300 feet of the boundaries of the site. Notice of the Planning Commission hearing was also published in the September 9, 2022 edition of the Claremont Courier Copies of this staff report have been sent to the applicant and other interested parties.

Submitted by:

Brad Johnson
Community Development Director

Prepared by:

Nikola Hlady
Senior Planner

Attachments:

- A - Draft Resolution Approving Conditional Use Permit #22-C04
- B - Site Plan, Floor Plans, and Elevations
- C - La Popular Food and Beverage Menu
- D - Interior and Exterior Renderings

RESOLUTION NO. 2022-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CLAREMONT APPROVING CONDITIONAL USE PERMIT FILE #22-C04, A REQUEST TO ALLOW THE SALE AND ON-SITE CONSUMPTION OF A FULL-LINE OF ALCOHOLIC BEVERAGES IN CONJUNCTION WITH A BONA-FIDE EATING ESTABLISHMENT AND A NEW OUTDOOR DINING AREA WITH A TOTAL OF 56 SEATS AT LA POPULAR RESTAURANT, LOCATED AT 235 NORTH YALE AVENUE. APPLICANT – MARK FERNANDEZ

WHEREAS, on June 30, 2022, the applicant submitted a Conditional Use Permit (CUP) application (File #22-C04) to allow the sale of a full-line of alcohol beverages (Type-47 Department of Alcoholic Beverage Control license) for on-site consumption in conjunction with a bona-fide eating establishment (restaurant) and for a new outdoor dining area of 842-square feet with 56 seats located at the subject property; and

WHEREAS, the restaurant is located within the Claremont Village Overlay District (CVO) where on-site alcohol sale and consumption in conjunction with a restaurant is subject to the approval of a CUP; and

WHEREAS, Section 16.090.040 of the Claremont Municipal Code (Incidental Outdoor Uses) requires that businesses that have more than a single row of tables for incidental outdoor seating be subject to the approval of a CUP; and

WHEREAS, notice of a public hearing was duly given and the above-mentioned site was posted on September 8, 2022; and

WHEREAS, notice of the public hearing was published in the September 9, 2022 edition of the Claremont Courier; and

WHEREAS, the Planning Commission held a public hearing on September 20, 2022, at which time all persons wishing to testify in connection with said proposal were heard and said proposal was fully studied.

NOW, THEREFORE, THE CLAREMONT PLANNING COMMISSION DOES HEREBY RESOLVE:

Section 1. The Planning Commission has determined that the proposed sale of alcoholic beverages for on-site consumption in conjunction with a restaurant, and the establishment of a new outdoor seating area are categorically exempt from the provisions of the California Environmental Quality Act under Section 15301 (Class 1 – Existing Facilities), in that the project entails the continued leasing of an existing tenant space involving a negligible expansion of use beyond that which currently exists. Therefore, no further environmental review is necessary.

Section 2. The Planning Commission makes the following findings in regard to the CUP for the above-described project:

- A. The 2,090-square foot interior space (along with the 822-square foot kitchen and 135-square foot bar) and the 842-square-foot outdoor dining area are adequate in size and

shape to accommodate the on-site sale of a full alcohol menu, including beer, wine, and distilled spirits in conjunction with the service of a full restaurant menu. The indoor, outdoor, and bar dining areas can adequately accommodate the seating layout shown on the floor plan on file with the Planning Division. The restaurant use is consistent with and will complement the variety of retail, office, and commercial uses in the Claremont Village area and is anticipated to add to the synergy that makes the Village a desirable locale for the City's residents and visitors. Required parking for the restaurant use (18 spaces) is satisfied by on-site parking in the existing lot, which has 20 spaces. Additionally, the property has four non-conforming parking credits assigned through the 1976 Village Parking Study, which would allow for the currently vacant adjacent retail space to be parked per CMC requirements at a future date.

- B. The subject site relates to streets properly designed to carry the type and quantity of traffic generated by a restaurant use, with the sale of alcohol and having outdoor seating is not expected to significantly increase traffic along those streets, namely Bonita Avenue and Yale Avenue. Vehicular access to the site, located at the southwest corner of the intersection of Yale and Bonita Avenues will not be modified from the property's longstanding previous use (record store), with entrance to the existing parking lot provided from Yale Avenue and its exit provided through the north-south alley that bisects the block. While the addition of the outdoor dining area requires the removal of four parking spaces in the existing lot, the restaurant use is parked to Code using on-site parking in the existing lot. Additionally, on-street parking is available throughout the Claremont Village and it is anticipated that some of the restaurant's customers will use available on-street parking as they park once and patronize La Popular and surrounding merchants.
- C. It is not anticipated that the proposed alcohol sales in conjunction with a full restaurant menu, and outdoor seating would impair the integrity and character of the Claremont Village Overlay (CVO) District or otherwise adversely affect adjacent properties or the permitted use thereof. The Village is characterized by a mix of commercial, retail, office, and restaurant uses that result in a vibrant and attractive downtown district, and the proposed use is compatible with and will complement those uses. Additionally, the sale of alcohol is appropriate as it occurs in conjunction with the food menu and food service hours as required by the CMC. Additionally, there are numerous restaurants in the CVO that serve alcohol and have done so without incident.
- D. The proposed alcohol sales and outdoor dining uses are not contrary to the General Plan in that the full service of alcohol for on-site consumption in conjunction with a bona-fide eating establishment is consistent with the Claremont Village land use designation and the goals and policies set forth in the City's General Plan which encourages economic and social activity in commercial areas of the city. Specifically, approval of the CUP allowing full alcohol sales and outdoor dining will enhance the restaurant use, thereby directly supporting General Plan Goal 3-1 to "Maintain a strong, diversified economic base" and General Plan Policy 3-1.1 to "Encourage a variety of businesses to locate in Claremont, including...restaurants to promote the development of a diversified local economy".
- E. The proposed use will not endanger or otherwise constitute a menace to the public health, safety, or general welfare in that the on-site sale of alcohol is an ancillary use to the primary restaurant use, as opposed to a stand-alone bar where the sale of alcohol

could raise compatibility and enforcement concerns. Furthermore, conditions of approval included in the Resolution give the City of Claremont the authority to revoke the conditional use permit if it is discovered that the restaurant operator is violating state regulations or any condition(s) of this approval. Moreover, the use is subject to the operating conditions imposed by the California Department of Alcoholic Beverages Control (ABC), which regulates and monitors the manner in which alcoholic beverages are sold throughout the State. The establishment of the new outdoor seating area will not endanger or constitute a menace to the public health and safety in that it has been designed to provide ample clearance for vehicles to enter and exit the property's parking spaces and is enclosed by a CMU wall that creates a barrier between the dining area and the parking lot.

Section 3. The Planning Commission hereby approves Conditional Use Permit 22-C04, based on the findings of Sections 16.303.04 of the Claremont Municipal Code outlined in Section B, above, and subject to the following conditions:

- A. This approval is for the sale of alcohol for on-site consumption in conjunction with a bona-fide eating establishment (Type-47 Department of ABC license) with a 2,090-square foot interior dining area and for the establishment of a new 842-square foot outdoor dining area, as described in the staff report and depicted on the site plan and floor plan on file with the Planning Division.
- B. This approval shall be valid for two years from the date of the Planning Commission action. If a Type 47 license is not secured from the State of California Department of Alcoholic Beverage Control (ABC) and the outdoor patio is not constructed within this timeframe, or an extension of the amended CUP is not granted, this approval shall automatically expire without further action by the City.
- C. Prior to commencing the service of beer and wine on the premises, the applicant shall obtain the appropriate license from ABC, comply with the licensing requirements, and provide evidence of said license to the Planning Division. In the event that there is a conflict between the conditions imposed by the City as part of this CUP approval and those imposed by ABC, the more restrictive provisions shall apply.
- D. If the use for which this CUP was granted (a full-line of alcoholic beverages for on-site consumption in conjunction with a bona-fide restaurant) is discontinued for a period of 12 months or more, such use shall not be re-established, and the matter may be referred to the Planning Commission to initiate the proceedings for the revocation of this CUP.
- E. The hours of operation for this business are limited to 11:00 a.m. to 1:00 a.m. from Monday to Friday, and 10:00 a.m. to 1:00 a.m. on Saturday and Sunday.
- F. Noise sources associated with this restaurant use and outdoor seating shall not exceed the noise levels of 60 dBA from 10:00 p.m. to 7:00 a.m., and 65 dBA from 7:00 a.m. to 10:00 p.m., as set forth in Chapter 16.154 of the CMC.
- G. Food service shall be provided at all times and open to the public during normal business hours in conjunction with the sale of alcoholic beverages.
- H. Outdoor furniture shall be secured on a nightly basis.

- I. The applicant shall be responsible for conforming to all provisions and standards set forth in Chapter 16.090 of the Claremont Municipal Code for incidental outdoor uses.
- J. At the discretion of the Community Development Director or his/her designee, the designated outdoor dining area shall be maintained in a clean and safe manner, including washing down the area as need to remove spills.
- K. If staff determines the outdoor dining area is not being properly maintained, the applicant shall be notified. Upon inaction by the applicant, the City will perform all necessary cleaning procedures and the applicant is responsible to pay the associated cost.
- L. The restaurant's employees shall be required to park in the nearby public parking lot located near the intersection Bonita Avenue and Grinnell Drive after 5:30 p.m. so as to make on-site parking available to restaurant customers to alleviate demand for on-site parking resources in the Village area.
- M. Legal Action – Hold Harmless: The applicant/owner shall defend, indemnify, and hold harmless the City of Claremont and its agents, officers, and employees from and against any claim, action, or proceeding against the City agency or its agents, officers, or employees relating to this discretionary approval, including without limitation, a claim, action, or proceeding to attack, set aside, void, or annul this approval, and/or an action by an advisory agency, appeal board, or legislative body concerning this approval. This defense and indemnification shall include the payment of all legal costs incurred on behalf of the City in connection with the application, and the defense of any claim, action or proceeding challenging the approval. The City will promptly notify the applicant/owner of any claim, action, or proceeding and will cooperate fully in the defense. In the event a legal challenge to the discretionary approval is successful, and an award of attorney fees is made to the challenger, the applicant/owner shall be responsible to pay the full amount of such an award.

Section 4. The Planning Commission Chair shall sign this resolution and the Commission's Administrative Secretary shall and certify to the passage and adoption thereof.

PASSED, APPROVED, AND ADOPTED this 20th day of September, 2022.

Planning Commission Chair

ATTEST:

Planning Commission Administrative Secretary