

**RESOLUTION NO. 2022-05**

**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.

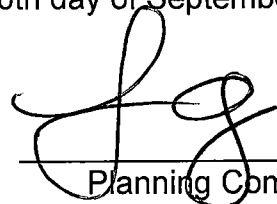
**Section 3.** The Planning Commission hereby approves Conditional Use Permit 22-C04, based on the findings of Sections 16.303.04 of the Claremont Municipal Code outlined in Section B, above, and subject to the following conditions:

- 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.

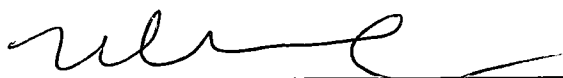
- I. The applicant shall be responsible for conforming to all provisions and standards set forth in Chapter 16.090 of the Claremont Municipal Code for incidental outdoor uses.
- J. At the discretion of the Community Development Director or his/her designee, the designated outdoor dining area shall be 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.

  
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Planning Commission Chair

ATTEST:

  
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Planning Commission Administrative Secretary

STATE OF CALIFORNIA                     )  
COUNTY OF LOS ANGELES            )ss.  
CITY OF CLAREMONT                    )

I, Nhi Atienza, Senior Administrative Assistant of the City of Claremont, County of Los Angeles, State of California, hereby certify that the foregoing Resolution No. 2022-05 was adopted by the Planning Commission of said City of Claremont at a regular meeting of said Commission held on September 20, 2022, by the following vote:

AYES:	Commissioners:	Andersen, Alvarez, Edwards, Emerson, Gonzalez, Jones, and Rahmim
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NOES:	Commissioners:	None
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ABSTENSIONS:	Commissioners:	None
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ABSENT:	Commissioner:	None
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Senior Administrative Assistant  
City of Claremont