



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Planning Commission Staff Report
June 10, 2024

Topic: Conditional Use Permit No. 2023-05 – Las Brisas Restaurant ABC License Upgrade (719 E. First Street, Unit A)

RECOMMENDED ACTION

Adopt a resolution approving Conditional Use Permit No. 2023-05 as conditioned.

EXECUTIVE SUMMARY

Rudy Lopez & Raul Cueva Jr., representing Las Brisas Restaurant, LLC., on behalf of Liquor License Agents (Applicant), is requesting approval of a Conditional Use Permit (CUP) No. 2023-05 to upgrade an existing Type 41 (Beer and Wine) alcohol license to a Type 47 (Beer, Wine, and Distilled Spirits) license, at an existing eating establishment located at 719 East First Street, Unit A. If approved, CUP No. 2023-05 will replace and supersede previously approved CUP No. 2008-08, approved for a Type 41 (Beer and Wine) alcohol license only. Pursuant to Section 41-196 of the Santa Ana Municipal Code (SAMC), establishments wishing to sell alcoholic beverages for on-premise consumption require approval of a CUP. Staff is recommending approval of the applicant's request because the site is located within an existing commercial center intended for such commercial uses, and due to the property's history of compliance with City codes and regulations. Moreover, the project site is buffered from sensitive land uses, the project complies with all applicable City standards, and the proposed operational standards would ensure that the applicant's request would not negatively affect the surrounding community.

DISCUSSION

Project Description

Las Brisas Restaurant, LLC (DBA Las Brisas Restaurant) occupies a 1,575-square-foot restaurant suite in a multi-tenant commercial building located on the northwestern corner of First Street and Lacy Street. The restaurant accommodates up to 60 patrons within the dining area. The restaurant is seeking to expand its current operations by proposing to sell distilled spirits in addition to beer and wine, through a Type 47 Alcoholic Beverage Control (ABC) license upgrade. The on-premise sale and consumption of beer, wine, and

distilled spirits will continue to be an ancillary component to its dining service options, which is a use allowed by right in the Specific Development (SD) No. 84 zoning district.

Currently, the designated alcohol storage area for the beer and wine is located behind the cashier. As part of this new CUP request, the alcohol storage area will be relocated and the proposed beer, wine, and distilled spirits will be stored in a designated alcohol storage closet behind the kitchen area. The restaurant will contain an overall alcohol storage area of approximately 24 square feet (previously 13.6 square feet as referenced with CUP No. 2008-08), which is less than five percent of the gross floor area of the tenant space as required by the Santa Ana Municipal Code (SAMC). Hours of operation are Monday through Wednesday 8:00 a.m. to 10:00 p.m., Thursday through Sunday 8:00 a.m. to 12:00 a.m. There is no outdoor dining associated with this business, nor is outdoor dining proposed at this time. Live entertainment is not proposed at this time. Should the applicant seek to provide on-site entertainment, approval of a separate entertainment permit will be required, pursuant to the Section 11-6 of the SAMC.

Table 1: Project and Location Information

Item	Information	
Project Address and Council Ward	719 E. First Street, Unit A – Ward 6	
Nearest Intersection	First Street and Lacy Street	
General Plan Designation	Urban Neighborhood – Medium (UN-40)	
Zoning Designation	Transit Zoning Code (SD-84)	
Land Use District	Corridor (CDR)	
Surrounding Land Uses	North	Single-Family Residential
	East	Child Care Facility
	South	Commercial Retail
	West	Automotive Service
Property Size	0.4 acres (17,500 square feet)	
Existing Site Development	The subject site contains a 3,670-square-foot multi-tenant building and 19 off-street parking stalls.	
Unit Size	1,575 square feet	
Use Permissions	Allowed with a conditional use permit (CUP)	
Zoning Code Sections Affected	Uses	SAMC Sections 41-196 (a)
	Operational Standards	SAMC Section 41-196(g)
Census Tract and License Information	Census Tract No.	750.02
	No. of Allowed and Existing ABC Licenses (onsite licenses)	10 Allowed (onsite); 61 Existing onsite licenses (19 Type 41 License & 26 Type 47)

Table 2: Operational Standards

Standards	Permissible by SAMC	Provided
Eating Establishment Type	Bona-Fide	Bona-Fide

Standards	Permissible by SAMC	Provided
Hours of Operation for ABC Sales	7:00 a.m. to 12:00 a.m. (midnight), unless extended by a separate after-hours CUP	Monday to Wednesday 8:00 a.m. to 10:00 p.m., Thursday to Saturday 8:00 a.m. to 12:00 a.m.
Window Display	25% of Window Coverage	Does not comply*
Alcohol Storage and Display	5% of G.F.A	0.008% of G.F.A
Exterior Telephone	Prohibited	None

*Pursuant to the *Operational Standards for On-Sale Establishments* (SAMC Section 41-196(g)(11)) and Article XI (On-Premises Signs), permissible window displays must be kept to a minimum for maximum visibility and shall not exceed twenty-five (25) percent of window coverage.

Project Background

The subject site was developed in 1988 with a 3,670-square-foot multi-tenant commercial building. The subject unit (Unit A) has consistently retained a restaurant tenant since the building's construction in 1988. Las Brisas Restaurant was issued a certificate of occupancy for Unit A on August 21, 1996, and has occupied the tenant space since. As the sole location in Santa Ana, this restaurant is considered a locally based eating establishment and is not affiliated with other Las Brisas restaurants in the region.

On June 9, 2008, the Planning Commission unanimously approved CUP No. 2008-08 to allow a Type 41 (beer and wine) ABC license for on-premise sale of alcoholic beverages. In January of 2023, the applicant submitted a CUP application for an upgrade from a Type 41 to a Type 47 (beer, wine, and distilled spirits) ABC license. At the time, the property underwent several interior and exterior site improvement upgrades as a recipient of American Rescue Plan Act (ARPA) funding. In 2023, permits for the property were finalized for parking lot resurfacing and restriping. The property has also updated the commercial center sign program, repainted the building, as well as refurbished and enhanced their landscaping abutting First Street and Lacy Street. Moreover, in 2023, Las Brisas Restaurant finalized permits for site upgrades for Americans with Disability Act (ADA) compliant restrooms.

Project Analysis

CUP requests are governed by Section 41-638 of the SAMC. CUPs may be granted when it can be shown that the proposed project will not adversely impact the community. If these findings can be made, then it is appropriate to grant the CUP. Conversely, the inability to make these findings would result in a denial. The purpose of regulating establishments that sell alcoholic beverages is to set forth operating practices and procedures and to minimize impacts to surrounding areas. Staff has reviewed the applicant's request for the sale and consumption of beer and wine, and has determined the proposed CUP will not be detrimental to the health, safety, and welfare of the community.

As a locally based establishment, Las Brisas Restaurant provides a unique dining experience with an ancillary service to customers by allowing them to purchase a variety of alcoholic beverages with their meal, which is currently limited beer and wine. Allowing the additional sale of distilled liquor for on-premises consumption would also allow the subject establishment to be economically viable and compete with full-service establishments that offer similar services to their patrons. The subject site is not located within immediate proximity to parks, playgrounds, schools, or religious institutions. The site is located adjacent to single-family residences within the Lacy Neighborhood, and located across the street from the Pacific Park Neighborhood along First Street. To date, the property contains no active Code Enforcement violations. There are no reported incidences of violent crimes as indicated in the Police Department Analysis later in this report. Lastly, the operational standards applicable to an ABC license will mitigate any potential impacts created by the use and will ensure that the use will not negatively affect the surrounding community.

The site is located approximately 245 linear feet to the north from the nearest establishment selling off-sale alcoholic beverages (Hickory Liquour Inc.) 750 linear feet to the east from the nearest private charter school (Edward B. Cole Academy) and 900 linear feet to the south from the nearest public school (Garfield Elementary). The site is also located within a census-tract that is deemed over concentrated by the State of California Department of Alcohol Beverage Control. Although not subject to the same over-concentration requirements as for off-sale licenses, the number of existing ABC (onsite licenses) for the subject census tract (Census Tract No. 750.02) does exceed the maximum allowable. Specifically, in the subject census tract, ten (10) ABC (onsite licenses) are allowed and there are 61 existing, including 19 Type 41 and 26 Type 47 licenses. The majority of these licenses are concentrated in the central core of Downtown Santa Ana and are not in the immediate vicinity of the project site.

Although overconcentration of on-premises licenses for the sale of alcoholic beverages is not a factor for analysis in the Santa Ana Municipal Code, as part of the analysis of the applicant's request staff carefully evaluated the East First Street corridor, which is experiencing heightened levels of loitering, transient, and illicit activities. As an example, loitering and prolonged stays of transients/individuals around the immediate area have created an unattractive environment for visitors and/or customers at certain properties. During the project review and analysis, staff has communicated with the applicant and recommended that the operations be undertaken in a manner that will address the ongoing issues with loitering, public displays of intoxication, or similar nuisance activities. Additionally, several conditions of approval have been included to ensure the site is up-to-date with landscaping requirements, window signage requirements, and ongoing maintenance of the site. For these reasons, enhanced conditions of approval have been added to ensure that the East First Street corridor's ongoing issues are not exacerbated by the addition of this license to this restaurant.

These conditions are specifically intended to address public safety concerns and include removing excess window painting and removing unpermitted window tints. Pursuant to the *Operational Standards for On-Sale Establishments* outlined in SAMC Section 41-196(g)(11)) and Article XI (On-Premises Signs), permissible window displays must be kept to a minimum for maximum visibility, and cannot not exceed 25-percent of window coverage. This municipal code requirement is in place to protect the public health, safety, and general welfare, by providing clear visibility into all businesses. Additionally, the recommended conditions will address limited hours of operation, future modification of hours of operation, and requiring that all alcohol be consumed within the property and that alcohol be dispensed into separate containers provided by the business operator. Moreover, to ensure that the approval of the applicant's request for an ABC license upgrade will not be detrimental to the local community, staff has recommended a condition of approval requiring the Planning Division to review the CUP after a six-month review period, to evaluate of the effects of the ABC license upgrade. During this period, the applicant's operations may not demonstrate a consistent increase in the number of service calls and/or police reports. The Applicant will be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under his/her control to assure such conduct does adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses. Provided with the additional conditions of approval, the granting of the CUP will not negatively impact any sensitive land uses that may be nearby. Lastly, the operational standards applicable to an ABC license will mitigate any potential impacts created by the use and will ensure that the use will not negatively affect the surrounding community.

General Plan Consistency

Approval of this application will be consistent with several goals and policies of the General Plan, specifically Goals 2, 3, 4. The project is located in the Urban Neighborhood – Medium (UN-40) General Plan land use designation, which allows for the development of semi urban villages that are well connected to schools, parks, and shopping centers. These areas are accessible by multiple modes of transportation, have lively and pedestrian-friendly streetscapes, and are designed to foster community interaction. Goal 2 of the Land Use Element (LU) encourages a balance of land uses that meet Santa Ana's diverse needs. Approval of upgrade to Type 47 ABC license is consistent with Policy 2.2 of the LU as it encourages a range of commercial uses to capture a greater share of local spending and offer a range of employment opportunities. Policy 2.7 of the LU supports land use decisions that encourage the creation, development, and retention of business in Santa Ana, in which Las Brisas Restaurant proposes to achieve with a Type 47 ABC license.

The inclusion of a property maintenance agreement, addition of conditions of approval, and ongoing efforts to upgrade the site as indicated on the staff report have proven

consistent with the following goals and policies of the LU. Goal 3 of the LU encourages the preservation and improvement of the character and integrity of the existing neighborhoods and districts. Policy 3.7 of the LU supports the promotion of a clean, safe, and creative environment for Santa Ana's residents, workers, and visitors. Goal 4 supports a sustainable Santa Ana through improvements to the built environment. Lastly, Policy 4.1 of the LU encourages the promotion of complete neighborhoods by encouraging a mix of complementary uses, community services, and people places within a walkable area. The granting of the CUP will provide an additional service to Santa Ana residents and visitors, thereby positively contributing to the economic viability of the area by promoting local spending, offering employment opportunities, and providing a safe workplace. In addition, the eating establishment is located within an existing commercial area and its operations will be compatible with the surrounding commercial businesses.

Police Department Analysis

The Police Department has reviewed this request and has no concerns, as the operational standards applicable to on-premises ABC licenses will mitigate any potential impacts to the surrounding community. The Police Department reviews such applications for the sale and service of alcoholic beverages in order to ensure that the potential crime and nuisance behaviors associated with alcohol consumption are mitigated to the greatest extent possible. For on-sale licenses, the Police Department analyzes the crime rate in the area using the standards and definitions contained in the Business and Professions Code Section 23948.4(c)(2), which are also utilized by ABC. This section defines "reported crimes" as criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic citations.

The Police Department then compares the number of such crimes in the reporting district as compared to the number of crimes in other reporting districts. In keeping with the standard used by ABC and Business and Professions Code, should the Police Department determine that the reporting district has a 20 percent greater number of reported crimes than the average number found in all reporting districts, the Police Department will consider this information in making its recommendation.

As part of the application process, the Police Department has reviewed the applicant's request for sale of beer, wine, and distilled spirits for on-premises consumption and has no concerns, as the operational standards applicable to the ABC license and conditions of approval will mitigate any potential impacts to the surrounding community. The Police Department carefully evaluated a 500-foot radius for the site's vicinity and determined that there has been approximately 534 service calls in the project site's vicinity between the one-year period of April 30, 2023, and April 30, 2024. Of those 534 calls, seventy-seven (77) resulted in reports taken in. None of the service calls received were due to

violent crimes and none were in relation to Las Brisas Restaurant. The reports were in result of vehicular collisions, hit and run collisions, narcotic activities, and five reported incidents for drunkenness in public. According to the Police Department, the number of calls for service is commensurate with the 500-foot radius. Based on its review, the Police Department has no issues of concern regarding this application.

Table 3: Police Department Analysis and Criteria for Recommendation

Police Department Analysis and Criteria for Recommendation	
Police Grid No. and Rank	Police Grid No. 185; ranked 3 out of 102 Police Reporting Grids (2nd percentile).
Threshold for High Crime	This reporting district IS within the 20 percent threshold established by the State for high crime.
Police Department Recommendation	<p>As part of the review approval process, this application was analyzed by the Santa Ana Police Department. The Police Department has no issues of concern regarding this application.</p> <p>Although the property falls within the 20-percentile high crime threshold, the proposed operations do not contribute to the overall crime of the area. The Police Department is satisfied that the operational standards applicable to on premise Type-47 ABC license. The Police Department concludes that the conditions set forth will mitigate any potential negative impact to the surrounding community and therefore does not oppose the granting of the modification to their existing CUP.</p>

Public Notification and Community Outreach

Project notifications were posted, published, and mailed in accordance with City and State regulations. Copies of the public notice, including a 1,000-foot notification radius map, and the site posting are provided in Exhibit 6. The site is located within the Lacy Neighborhood Association and located adjacent to the Pacific Park Neighborhood Association on the south side of First Street. To ensure thorough community outreach, notices were sent to the Lacy Neighborhood Association to identify any areas of concerns due to the proposed application request. Moreover, staff contacted the Lacy & Pacific Park Neighborhood Associations and at the time this report was printed, no issues of concern were raised regarding the proposed CUP.

ENVIRONMENTAL IMPACT

In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the project is categorically exempt from further review per Section 15301 (Class 1 – Existing Facilities). Class 1 exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving

negligible or no expansion of existing or former use. The project proposes to allow the operation of an alcoholic beverage control license to sell alcoholic beverages at an existing bona-fide eating establishment, with negligible or no expansion of the existing use proposed. As such, a Notice of Exemption, Environmental Review No. 2023-14, will be filed for this project.

FISCAL IMPACT

There is no fiscal impact associated with this action.

EXHIBIT(S)

1. Resolution
2. Vicinity Zoning and Aerial View
3. Site Photo
4. Site and Floor Plan
5. Map of ABC Licenses in Project Vicinity
6. Copy of Public Notices

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