



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Planning Commission Staff Report
April 24, 2023

Topic: Conditional Use Permit Nos. 2023-07 and 2023-08 – Tacos Sin Frontera ABC License and After-Hours Operation

RECOMMENDED ACTION

1. Adopt a resolution approving Conditional Use Permit No. 2023-07 for the sale of alcoholic beverages for on-premises consumption as conditioned; and
2. Adopt a resolution approving Conditional Use Permit No. 2023-08 for after-hours operation as conditioned.

EXECUTIVE SUMMARY

Ganie Dino with Ganie Dino Design, LLC., and representing Mucho Power Inc., dba "Tacos Sin Frontera," (Applicant) and The Georges and Lane Avery Revocable Trust (Property Owner), is requesting approval of Conditional Use Permit (CUP) No. 2023-07 to allow for the sale of alcoholic beverages for on-premises consumption and CUP No. 2023-08 to allow after-hours operation at a new eating establishment located at 310 East Fourth Street. Pursuant to Section 41-196 of the Santa Ana Municipal Code (SAMC), establishments wishing to sell alcoholic beverages for on-premises consumption requires approval of a CUP. In addition, pursuant to Section 41-196(g)(3) of the SAMC and Section 41-2007 of the Transit Zoning Code/Specific Development No. 84 (SD-84) establishments wishing to operate after-hours require approval of a CUP. Staff is recommending approval of the applicant's request because the site is located within downtown Santa Ana and is located in a zoning district which allows a mixture of land uses. Moreover, the site complies with City standards, and the operational standards and proposed conditions of approval will ensure that the use will not negatively affect the surrounding community.

DISCUSSION

Project Description

The applicant is requesting approval of two CUPs, one to allow the sale of beer and wine for on-premises consumption, through a Type 41 license from the Department of Alcoholic Beverage Control (ABC), and the other to allow after-hours operation at a new eating

establishment (Tacos Sin Frontera) located at 310 East Fourth Street. Tacos Sin Frontera will occupy an existing 920-square foot commercial building located along the south side of East Fourth Street between Spurgeon Street and French Street. The eating establishment will offer both an indoor and outdoor dining area and accommodate seating for up to 38 customers. As part of the applicant's request, a rear area directly adjacent to the building that is enclosed by an existing fence will be improved with outdoor dining.

The alcoholic beverages will be stored in a designated alcohol storage area situated with other stored items. The eating establishment will have an overall alcohol storage area of approximately 12 square feet, which is less than five percent of the gross floor area of the tenant space as allowed by Section 41-196(g)(25) of the SAMC. The eating establishment will operate on Sundays through Thursdays from 7:00 a.m. to 12:00 a.m. (midnight) and Fridays and Saturdays from 7:00 a.m. to 1:30 a.m. The sale of alcoholic beverages for on-premises consumption would only occur on Sundays through Thursdays from 7:00 a.m. to 10:00 p.m. and Fridays and Saturdays from 7:00 a.m. to 12:30 a.m. Entertainment is not proposed at this time. Should the applicant seek to provide on-site entertainment, approval of an entertainment permit will be required pursuant to Section 11-6 of the SAMC.

Table 1: Project and Location Information

Item	Information	
Project Address and Council Ward	310 East Fourth Street – Ward 6	
Nearest Intersection	North Spurgeon Street and East Fourth Street	
General Plan Designation	District Center-Medium High (DC-3)	
Zoning Designation	Transit Zoning Code (SD-84)	
Land Use District	Downtown	
Surrounding Land Uses	North	Commercial/Retail
	East	
	South	
	West	
Property Size	0.07 acres (3,101 square feet)	
Existing Site Development	920 square foot commercial building	
Use Permissions	Allowed with approval of a CUP	
Zoning Code Sections Affected	Uses	SD-84 Sections 41-2007
	Operational Standards	SAMC Section 41-196(g)
Census Tract and License Information	Census Tract No.	750.02
	No. of Allowed and Existing Licenses	10 Allowed; 47 Existing

Table 2: Operational Standards

Standards	Permissible by SAMC	Provided
Eating Establishment Type	Bona-Fide	Bona-Fide
Hours of Operation for Alcohol Sales	7:00 a.m. to 12:00 a.m. (midnight), unless extended by a separate after-hours CUP	Tacos Sin Frontera is proposing to operate daily from 11:00 a.m. to 1:30 a.m. Requires approval of an after-hours CUP

Standards	Permissible by SAMC	Provided
Window Display	25% of Window Coverage	Complies
Alcohol Storage and Display	5% of G.F.A	1.3% of G.F.A

Project Background

The subject site that was constructed in 1976 and was previously occupied by a coffee shop (Coffee Muse). On February 22, 2023, the applicant submitted tenant improvement plans for building plan check and is currently working with staff to complete the permitting process. As a condition of approval for this application, the applicant will be required to finalize all outstanding permits and inspections for the tenant improvements.

The applicant currently owns an existing shabu-shabu eating establishment located at 303 North Spurgeon Street, which is also within downtown Santa Ana. The shabu-shabu restaurant (Kaizen) currently operates after-hours and offers beer, wine, and distilled spirits for on-premises consumption, through a Type 47 ABC license. At this time, the applicant is seeking to expand his business operations and establish a second eating establishment with the subject restaurant at 310 East Fourth Street, which will specialize in Mexican cuisine.

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 and operate after-hours 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 of beer and wine for on-premises consumption and after-hours operations, and has determined the proposed uses will not be detrimental to the health, safety, and welfare of the community.

Tacos Sin Frontera will feature a full menu of cold and hot foods, including tacos and other Mexican food items, to patrons within the downtown area. The sale of beer and wine for on-premises consumption will not only provide a unique dining experience with an ancillary service to customers but will also allow the subject establishment the opportunity to be economically viable and compete with neighboring full-service establishments that offer similar services. Additionally, the downtown area features after-hours businesses that range from entertainment to similar eating establishments also offering alcohol. Allowing the extended hours of operation would allow the restaurant the opportunity to serve patrons native to and visiting Santa Ana.

The subject site is not located within immediate proximity to parks, playgrounds, schools, or religious institutions. In addition, the building is located approximately 300 feet away from the nearest multi-family development and approximately 750 feet from the nearest

single-family residence. The proposed outdoor dining area is designed and located in a manner that minimizes any potential impacts onto sensitive receptors. As a result, the granting of the requested CUP's will not negatively impact any sensitive land uses that may be nearby. Moreover, the operational standards applicable to an ABC license, pursuant to Section 41-196(g) of the SAMC, and conditions of approval 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:

Conditional Use Permit for On-Premises Alcohol Sales

Approval of proposed CUP would be consistent with several goals and policies of the General Plan. Goal 2 of the Land Use Element (LU) encourages a balance of land uses that meet Santa Ana's diverse needs. Policy 2.2 of the LU 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. Consistent with these goals and policies, the proposed CUP helps provide a balance of diverse commercial land uses, which encourage local spending, strengthen local businesses, and increase economic opportunities. Moreover, providing a variety of full-service restaurants that offer alcoholic beverages as part of their menu offers additional dining options for Santa Ana residents, workers, and visitors. Furthermore, Policy 4.1 of the LU encourages complete neighborhoods by introducing a mix of complementary uses, community services, and people places within a walkable area. The CUP will allow for 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.

Conditional Use Permit of Afterhours Operation

Approval of proposed CUP would be consistent with several goals and policies of the General Plan. Goal 2 of the LU encourages a balance of land uses that meet Santa Ana's diverse needs. Policy 2.2 of the LU encourage a range of commercial uses to capture a greater share of local spending and offer a range of employment opportunities. Approval of the CUP would allow for extended hours of operation, which would directly result in additional hours to capture local spending in the Downtown Santa Ana area. In addition, extended hours would offer a wider range of employment opportunity for community members that need nontraditional working hours, therefore, promoting the economic viability of the business. Additionally, Goal 4 of the LU supports a sustainable Santa Ana through improvements to the built environment and a culture of collaboration and Policy 2.7 of the LU encourages a mix of complementary uses, community services, and people places within a walkable area. Consistent with these goals and policies, the proposed

after-hours operation is requested by an eating establishment located within a built environment that is surrounded by a variety of nightlife oriented business. The proposed CUP would be complementary to other similar business in the area and provide an additional option to patrons of Downtown Santa Ana area.

Police Department Analysis:

The Police Department has reviewed the applicant's request and has no concerns, as the operational standards applicable to on-premises ABC licenses and the proposed conditions of approval will mitigate any potential impacts to the surrounding community. The Police Department reviews such applications for the sale and service of alcoholic beverages and after-hours operations in order to ensure that the potential crime and nuisance behaviors associated with alcohol consumption are mitigated to the greatest extent possible. For on-premises 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 application was reviewed by the Police Department. 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 9 out of 102 Police Reporting Grids (8th percentile).
Threshold for High Crime	This reporting district is not within the 20 percent threshold established by the State for high crime.
Police Department Recommendation	The Police Department is satisfied that the operational standards applicable to an on-premises ABC licenses and proposed conditions of approval will mitigate any potential negative impact to the surrounding community, and therefore, the Police Department does not oppose the granting of the CUPs.

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 7. The site is located within the boundaries of the Lacy Neighborhood Association and is near the Downtown Neighborhood Association. Staff contacted the neighborhood representatives to identify any areas of concerns of the proposed CUP applications. At the time this report was printed, no issues of concern were raised regarding the proposed CUPs.

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) of the CEQA Guidelines. 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 sale of alcoholic beverages for on-premises consumption and after-hours operation at a proposed bona-fide eating establishment. As such, a Notice of Exemption, Environmental Review No. 2023-23, will be filed for this project.

FISCAL IMPACT

There is no fiscal impact associated with this action.

EXHIBIT(S)

1. Resolution for CUP No. 2023-07
2. Resolution for CUP No. 2023-08
3. Vicinity Zoning and Aerial View
4. Site Photo
5. Site Plan
6. Floor Plan
7. Copy of Public Notices

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